

Steve Sisolak, Governor



Margaret Tracey, O.M.D., President
Chia Hua Linda Chow, O.M.D., Vice President
Lisa Grant, O.M.D., Secretary-Treasurer
Michael Ferris, O.M.D., Member
Michael Smith, Member
Jennifer Braster, Member
Merle Lok, Executive Director

STATE OF NEVADA
BOARD OF ORIENTAL MEDICINE
3191 E. Warm Springs Rd.
Las Vegas, NV 89120
Phone (702) 675-5326 Fax (702) 989-8584
Email: omboardexecutivedirector@gmail.com

PUBLIC NOTICE OF WORKSHOP FOR THE ADOPTION OF THE REGULATIONS OF
THE BOARD OF ORIENTAL MEDICINE

DATE: February 13, 2020 (Thursday) at 10:00 A.M.

NOTICE IS HEREBY GIVEN that the Nevada State Board of Oriental Medicine will conduct a public workshop meeting on the above-referenced date and time. The meeting will be held at the Grant Sawyer Building, Office of the Attorney General, 555 East Washington Ave., Room # 4500, Las Vegas, NV 89101 with teleconferencing at the Office of the Attorney General, 5420 Kietzke Lane, Room #202, Reno, NV 89511. Phone conference no: (425) 436-6200. Access code: 374615#.

The purpose of the workshop is to receive comments from all interested persons regarding the potential adoption of regulations that pertain to chapter 634A of the Nevada Administrative Code.

The proposed regulation includes:

Revision to NAC 634A regarding the definition of dry needling;

Revision to NAC 634A.060 regarding the training, certain duties and pay of Board members;

Revision to NAC 634A.080 regarding the requirements for licensing;

Revision to NAC 634A.085 regarding the requirements for Oriental Medicine Certification for licensing;

Revision to NAC 634A.095 regarding the requirements for TOEFL examination;

Revision to NAC 634A.100 regarding the practical examination pertaining to applicable Nevada laws and regulations governing the practice of Oriental Medicine;

Revision to NAC 634A.110 regarding the re-examination of the applicant who failed the practical examination;

Revision to NAC 634A.140 regarding the annual renewal process;

Revision to NAC 634A.137 regarding the approval of courses of continuing education;

Revision to NAC 634A.144 regarding the requirements for practicing Acupuncture Injection Therapy;

Revision to NAC 634A regarding the retention of medical records; and

Revision to NAC 634A regarding that all licensees must comply with NRS 629.

A copy of the proposed language that will be considered by the Nevada State Board of Oriental Medicine is attached hereto. Persons wishing to comment upon the proposed action of the Nevada State Board of Oriental Medicine may appear at the scheduled public workshop or may address their comments, data, views, or arguments, in written form, to Merle Lok, Executive Director, 3191 E. Warm Springs Rd., Las Vegas, Nevada 89120. Written submissions must be received by the Nevada State Board of Oriental Medicine on or before 2/7/2020. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Board of Oriental Medicine may proceed immediately to act upon any written submissions.

Members of the public who require special accommodations or assistance at the workshop are required to notify Merle Lok, Executive Director, 3191 E. Warm Springs Rd., Las Vegas, Nevada 89120, Telephone: (702) 675-5326, no later than 2/10/2020.

A copy of this notice of workshop and the regulation to be discussed will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the Nevada State Board of Oriental Medicine, 3191 E. Warm Springs Rd., Las Vegas, Nevada 89120 and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

This notice of workshop and the proposed regulations have been posted at the following locations:

Nevada State Board of Oriental Medicine – 3191 E. Warm Springs Rd., Las Vegas, NV 89120

Nevada State Board of Oriental Medicine website: <http://http://orientalmedicine.nv.gov/>

Office of the Attorney General - 100 N. Carson St., Carson City, NV 89701

Office of the Attorney General- Grant Sawyer Bldg., 555 E. Washington Ave., Las Vegas, NV 89101

State Library and Archives -100 N. Stewart Street, Carson City, NV 89701 or at: Notice.NV.GOV

Carson City Library- 900 N. Roop Street, Carson City, Nevada 89701

Churchill County Library - 553 S. Maine Street, Fallon, Nevada 89406

Clark County Library- 1401 E. Flamingo Road, Las Vegas, Nevada 89119

Douglas County Public Library - 1625 Library Lane, Minden, Nevada 89423

Elko County Library - 720 Court Street, Elko, Nevada 89801

Esmeralda County Library - 10 Montezuma Way, Silverpeak, Nevada 89047

Eureka Branch Library - 10190 S. Monroe, Eureka, Nevada 89301

Humboldt County Library- 85 E. 5th Street, Winnemucca, Nevada 89445

Battle Mountain Branch Library-625 South Broad Street, Battle Mountain, Nevada 89820

Lincoln County Library-63 Main Street, Pioche, Nevada 89043

Lyon County Central Library - 20 Nevin Way, Yerington, Nevada 89447

Mineral County Library - 110 1st Street, Hawthorne, Nevada 89415

Pershing County Library - 1125 Central Avenue, Lovelock, Nevada 89419

Storey County Library - 95 South R Street, Virginia City, Nevada 89440

Tonopah Library - 167 S. Central Street, Tonopah, Nevada 89049

Washoe County Library - 301 S. Center Street, Reno, Nevada 89505

White Pine County Library - 950 Campton Street, Ely, Nevada 89301

Proposed NAC 634A regulation updates 2019

Add into definitions:

“Dry needling”:

(a) Means an advanced needling skill or technique limited to the treatment of myofascial pain, using a single-use, single-insertion, sterile needle without the use of heat, cold or any other added modality or medication, which is inserted into the skin or underlying tissue to stimulate a trigger point.

(b) Does not include:

- (1) The stimulation of an auricular point;
- (2) Utilization of a distal point or nonlocal point;
- (3) Leaving the needle in the human body for more time than it takes to get a muscle response, or for more than a maximum of one minute;
- (4) Application of a retained electrical stimulation lead; or
- (5) The teaching or application of other acupuncture theory
- (6) Having more than one needle in the body at a time

634A.060

-The president, Vice President and Secretary-Treasurer shall all participate at least once in the training offered by the State AG office on Board Membership within 6 months of election.

-All board members must disclose potential conflicts of interests on any matter brought before the board or raised at meetings

- Board members may not receive more than \$100 per diem for attending board meetings.

--The Board secretary is responsible for overseeing compliance with state archiving requirements in regards to board records, including annual submission of records to the State Archives.

634A.080 1. An applicant for a license to practice Oriental medicine must submit, together with ~~his or her~~ ~~their~~ application, evidence that ~~they~~ ~~he or she~~ ~~has~~ ~~ve~~ successfully

completed a 4-year program of study, or its equivalent, **which may include a combined bachelor's and master's degree program**, in Oriental medicine at a school or college of Oriental medicine which is approved by the Board **or is ACAOM approved**.

2. If the application is submitted pursuant to subsection 1 of NRS 634A.140, the applicant must submit evidence showing that ~~he or she has~~ **they have** earned a bachelor's degree, **or completed a combined bachelor's and master's degree program in Oriental medicine**, from an accredited college or university in the United States.

3. If the application for licensure by endorsement is submitted pursuant to subsection 2 of NRS 634A.140, the applicant must submit evidence that ~~he or she~~ **they**:

(a) Has lawfully practiced Oriental medicine in another state or foreign country for at least 4 years, and

(b) Holds **current** Oriental Medicine Certification **through examinations** by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization.

(c). **Provided a letter from the regulatory board in the current state of licensure stating that no disciplinary actions have been taken against the applicant for the duration of licensure in that state.**

4. **If application for licensure by endorsement is submitted pursuant to subsection 2 of NRA 634A.140 and the applicant graduated prior to Nov 25, 2002 and does not meet the didactic or clinical hours requirement, the applicant must include evidence that they:**

a. **Have successfully completed a program in Oriental medicine from a school or college of Oriental medicine before Nov 25, 2002 that included the study of herbology and**

b. **Have actively practiced Oriental medicine pursuant to the laws of another state or territory of the United States, the District of Columbia or foreign country for at least 6 of the 8 years immediately preceding the date of the application and**

(c) **Passed the examinations required by NRS 634A.120 and**

(d) **Hold a current certification in Oriental medicine through examination issued by NCCAOM.**

4. 5. For the purposes of subsection 1, the Board may approve an accredited 4-year program of study, or its equivalent, in Oriental medicine at a school or college of Oriental medicine if the Board finds that:

(1a.) **Required the completion of at least 2,800 hours of instruction, including not less than 2,500 didactic hours, for a student to have graduated before November 25, 2002; or**

(2-b) **Requires the completion of at least 3,000 hours of instruction, including not less than 2,500 didactic hours, for a student to graduate on or after November 25, 2002.**

(c) **For those applicants who do not meet the didactic or course content requirements, they may take up to, but no more than, 250 CEUs of NCCAOM approved courses in the**

Oriental Medicine subject area that the credits are missing; or from an accredited college, university or Oriental Medicine school for non-Oriental Medicine course requirements.

5. 6. For the purposes of subsections 2, ~~and 3~~, 4, and 5 evidence that the applicant is qualified for licensure as a doctor of Oriental medicine must include certified copies of any diplomas, transcripts, licenses and certificates issued to the applicant. If possible, all certified copies of official diplomas, transcripts, licenses or certificates must be forwarded directly to the Executive Director from the issuing entity rather than from the applicant.

[Bd. of Oriental Med., Art. IV part § 1, eff. 7-19-76; + Art. V part § 1, eff. 4-26-74]—
(NAC A 1-22-92; R071-02, 11-25-2002)

634A.085 To comply with the requirement of passing an examination in Oriental medicine that is administered by a national organization approved by the Board pursuant to NRS 634A.120, an applicant for licensure as a doctor of Oriental medicine must:

1. Have passed **all** the examinations for Oriental Medicine Certification administered by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization within the 12 months preceding the date of application for licensure; or
2. Be certified **through examination** by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization.

634A.095 1. Except as otherwise provided in subsection 2, an applicant for a license to practice Oriental medicine must, ~~(a)–B~~ before taking the practical examination;

(4a) Pass the Test of English as a Foreign Language (TOEFL) Paper-Based Test with a score of at least 550; or

~~(2b)–~~Pass the Test of English as a Foreign Language (TOEFL) Internet-Based Test with a total score of at least 80;~~and~~

~~—— (b) At the time of the practical examination, demonstrate a reasonable proficiency in the English language through an oral interview. —~~

2. Subsection 1 does not apply to an applicant who graduated from a high school or college in the United States.

634A.100 Practical Examination ~~1. Until such time as the Board implements a process for administering a practical examination online:~~

(a) The practical examination will be given in ~~June and~~ April, August and December of each year and the Board may add testing dates as it deems appropriate.

~~—— (b) An applicant may not take the practical examination unless the applicant has first passed the examinations required pursuant to NAC 634A.085. The Executive Director shall notify an applicant of the time and place of the practical examination not later than 20 days before the date on which the practical examination is scheduled. ——~~

~~—— (c) During the practical examination, only the testing consultant and the applicants will be allowed in the examination rooms. ——~~

~~—— 2. Upon the implementation of a process for administering the practical examination online: ——~~

~~—— (a) Examinations will be offered at times and places established by the Board but at least two times each year in accordance with NRS 634A.120. ——~~

~~—— (b) The Board will notify an applicant of his or her eligibility to take the practical examination online. Not later than 90 days after notification by the Board, the applicant must take the examination online at the facility that is designated by the Board. ——~~

3. As a part of the practical examination, the Board ~~may~~ will examine an applicant as to ~~his or her~~ ~~their~~ basic knowledge of ~~the following subjects:~~

~~(a) Basic medical science concerning anatomy, physiology, pathology, bacteriology and communicable diseases.~~

~~——(b) The Clean Needle Technique, as presented in the current guidelines of the Clean Needle Technique course administered by the Council of Colleges of Acupuncture and Oriental Medicine.~~

~~——(c) Oriental medicine theory, herbology and acupuncture.~~

~~——(d) Oriental herb safety and herb drug interactions.~~

~~(e) Applicable Nevada laws and regulations governing the practice of Oriental Medicine. pertaining to health and safety.~~

4. The practical examination will be given in written form. Each applicant shall take the examination in the English language.

5. An applicant must receive an overall score of 70 percent on the practical examination ~~and 65 percent on each of its sections or subparts to pass the examination.~~

NAC 634A.110 Reexamination of applicant who fails practical examination. ([NRS 634A.070](#), [634A.120](#))

1. An applicant for a license to practice Oriental medicine who fails the practical examination may retake the examination on the next scheduled examination date. A person seeking reexamination must notify the Executive Director by completing a form prescribed by the Board and submitting the fee set forth in [NAC 634A.165](#).

~~2. If an applicant who has failed the practical examination failed only one section of the practical examination, the applicant will be reexamined only with respect to the section that he or she failed. If the applicant failed two or more sections of the practical examination, he or she must repeat the entire practical examination at the time of reexamination.~~

634A.140 [Annual renewal process and fees](#)

1. Except as otherwise provided in this section, each person who holds an active or inactive license to practice Oriental medicine shall pay to the Board an annual fee for the renewal of the

license as required by NAC 634A.165 and submit a renewal form with information on, but not limited to, continuing education credit information and, when applicable, NCCAOM certification status.

~~2. The Board will prorate by month the annual fee for the first renewal of an active or inactive license to practice Oriental medicine.~~

2. If the holder of a license fails to pay the fee or submit all required information by Feb 1 of each year, the license expires automatically. The license may be reinstated by:

a. payment of the required fee and

b. submission of all required information within 90 days after the expiration of the license pursuant to this subsection.

c. During the time of license expiration, the holder of the license must suspend all practice of Oriental Medicine, until such time as the license is renewed.

NAC 634A.137 Approval of courses of continuing education

2. Courses ~~given in the Core Competency designation of Acupuncture and Oriental Medicine, including Biomedicine (AOM-BIO), which are approved for recertification,~~ by the National Certification Commission for Acupuncture and Oriental Medicine, including the designations of AOM-AC, AOM-CH, AOM-SA, AOM-ET and AOM-BIO, or any successor designation schema adopted by NCCAOM, may be offered as courses of continuing education for licensees in this State without approval from the Board and are exempt from the imposition of fees for approval of courses of continuing education pursuant to NAC634A.165.

6. There is no limitation on the number of continuing education credits that may be earned through any online format, with the exception of practical requirements for acupuncture injection therapy.

634A.144 Acupuncture Injection Therapy

A licensee may practice the technique of Acupuncture Injection Therapy pursuant to the following:

1. Definition: The subcutaneous, intramuscular and intradermal injection by licensed Oriental Medicine doctors only, of substances specifically manufactured for injection by means of hypodermic needles to stimulate acupuncture points, ashi points and trigger points, to relieve pain and prevent illness. For the purposes of this section, acupuncture points include trigger points as a subset of acupuncture points and Ashi points as recognized by the current practice of Oriental Medicine
2. Oriental Medicine doctors are required to obtain Board endorsement before practicing Acupuncture Injection Therapy.
3. Board endorsement requires practitioners to:
 - a. complete NCCAOM-approved post graduate coursework on safe injection therapy practices that is no less than 24 hours of in-person education, and includes testing for allergic reactions to injectables; a minimum of 8 hours of practice hours, including two hours training in the administration of intramuscular epinephrine, and;
 - b. Carry professional insurance that covers injection therapy; and
 - c. Submit documentation to verify education and insurance coverage to the Board before endorsement is granted. Proof of insurance coverage must be submitted yearly.
4. Practitioners may only inject substances that they have received training in, including but not limited to nutritional, botanical, homeopathic, and herbal substances. Injectable substances do not include controlled substances contained in Schedules I-V of the Uniform Controlled Substances Act.

5. All AIT practitioners, even if they received training prior to the adoption of the endorsement policy, must apply for endorsement.

a. All practitioners must annually renew their endorsement, including proof of insurance coverage.

b. Practitioners who cannot show proof of insurance coverage will have their license suspended until proof is provided, or the practitioner agrees to stop providing AIT.

Retention of Medical Records

In accordance with NRS 629.016 all practitioners of Oriental medicine will retain patient records for 5 years commencing the last date of treatment. The healthcare records of a person who is under 23 years of age may not be destroyed until after 5 years pursuant to subsection one of NRS 629.051.

Compliance with NRS 629

All practitioners of Oriental medicine must comply with the provisions of NRS 629.

SMALL BUSINESS IMPACT STATEMENT

CHANGES TO NAC 634A

January 14, 2020

Changes to NAC 634A Small Business Impact Statement Pursuant to NRS233B.0608:

- 1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

On 12/31/2019, a small business impact survey and the proposed regulation changes were sent to all licensed Oriental Medicine Doctors to determine the impact of the proposed regulations. Also, the small business impact survey is posted on the website of the Board of Oriental Medicine along with the proposed regulation changes.

The Board of Oriental Medicine received 2 responses indicating that there was no economic impact on their businesses.

Interested persons may contact Merle Lok, Executive Director, Board of Oriental Medicine, 3191 E. Warm Springs Road, Las Vegas, NV 89120, omboardexecutivedirector@gmail.com, 702-375-5326.

- 2. The manner in which the analysis was conducted (if an impact was determined).**

On 12/31/2019, a small business impact survey and the proposed regulation changes were sent to all licensed Oriental Medicine Doctors to determine the impact of the proposed regulations. Also, the small business impact survey is posted on the website of the Board of Oriental Medicine along with the proposed regulation changes. No economic impact was indicated by the small business impact surveys.

- 3. The estimated economic effect of the proposed regulation on small businesses:**

- a. Both adverse and beneficial effects**

There is no adverse impact based upon the small business impact survey. The benefits include updating definitions, board member training requirements, clarifying licensure standards, including the content

covered by the licensing test, licensing fee payment schedule clarifications, the Board endorsement process for practicing acupuncture injection therapy, online continuing education credit requirements, and medical record retention rules.

b. Both direct and indirect effects

See 3 a. Also, the proposed regulation is not expected to impose an economic burden upon small businesses or restrict the formation, operation or expansion of small businesses.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of the methods. *(Include a discussion of any considerations of the methods listed below.)*

A. Simplification of the proposed regulation

There has not been any recommendations by the public regarding the simplification of the proposed regulations.

B. Establishment of different standards of compliance for a small business

N/A

C. Modification of fees or fines so that a small business is authorized to pay a lower fee or fine.

N/A

5. The estimated cost to the agency for enforcement of the proposed regulation. *(Include a discussion of the methods used to estimate those costs.)*

None.

6. If this regulation provides for a new fee or increases an existing fee, the total annual amount the agency expects to collect and manner in which the money will be used.

These regulations do not provide any new fees or increase of fees.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, provide an explanation of why such duplicative or more stringent provisions are necessary.

The proposed regulations do not include provisions which duplicate or are more stringent than any federal, state or local standards regulating the same activity.

8. The reasons for the conclusions regarding the impact of a regulation on small businesses.

Based upon the responses from the small business impact survey, the proposed regulations do not impose an economic burden upon small businesses or restrict the formation, operation or expansion of small businesses.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and that this statement was properly prepared and the information contained in this statement is accurate.

Merle Lok
Merle Lok, Executive Director

12/14/2020
Date