

**ADOPTED REGULATION OF THE
STATE BOARD OF ORIENTAL MEDICINE**

LCB File No. R193-07

Effective June 17, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-4, 6 and 8-10, NRS 634A.070; §5, NRS 634A.070 and 634A.120; §7, NRS 634A.070 and 634A.165.

A REGULATION relating to Oriental medicine; revising provisions governing the licensing of persons who practice Oriental medicine; and providing other matters properly relating thereto.

Section 1. Chapter 634A of NAC is hereby amended by adding thereto a new section to read as follows:

No member of the Board may participate in preparing, examining or grading an examination or in any other decision made with respect to an applicant to whom the member is related within the third degree of consanguinity or affinity or with whom the member has a significant pecuniary relationship. Information regarding such a relationship must be disclosed by the Board member and applicant at the time of application.

Sec. 2. NAC 634A.010 is hereby amended to read as follows:

634A.010 1. The Board will designate a person to act as Executive Director of the Board.
2. The principal office of the Board is the office of that person designated as the Executive Director. ~~[The principal office of the Board will be open during regular business hours.]~~

Sec. 3. NAC 634A.085 is hereby amended to read as follows:

634A.085 ~~{H}~~ 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 pass the examinations for acupuncture and Chinese herbology administered by a national organization approved by the Board. ~~{~~

~~—(a) Not earlier than the 2 years immediately preceding the date on which his application is submitted; and~~

~~—(b) Not later than the date on which his application is complete.~~

~~—2. If an applicant has passed any of the examinations required pursuant to subsection 1 more than 2 years immediately preceding the date of submission of his application, the applicant shall be deemed not to have passed that examination for the purpose of complying with subsection 1 and must retake and pass that examination in accordance with the provisions of subsection 1.~~

Sec. 4. NAC 634A.090 is hereby amended to read as follows:

634A.090 1. ~~{The deposit to be used to defray the expenses of the investigation of each applicant's background and training is nonrefundable. If the cost of the investigation exceeds the sum deposited, no further consideration will be given to the application until the applicant has tendered in full such additional investigative fees as the Board deems reasonably necessary to complete the investigation.}~~ *An investigation of an applicant's background and training by the Board or any person acting on its behalf must include:*

(a) Verification of a report from the Federal Bureau of Investigation showing no prior convictions;

(b) Verification of graduation from a school or college approved by the Board;

(c) Verification of licensure in another state or country, if applicable;

(d) Verification that questions on the application relating to the applicant's background have been answered correctly; and

(e) Further investigation of an applicant who attended a foreign school or college or practiced Oriental medicine in another state or country as the circumstances warrant.

2. An applicant may not take the practical examination for which he has applied before the investigation of his background and training has been completed.

Sec. 5. NAC 634A.110 is hereby amended to read as follows:

634A.110 1. An applicant for a license to practice Oriental medicine who ~~has failed~~ *fails* the practical examination may ~~apply for reexamination by the Board no earlier than 6 months after the date of the practical examination failed by the applicant.~~ *retake the examination on the next scheduled examination date.* A person seeking reexamination ~~shall~~ *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, he will be reexamined only with respect to the section that he failed. If the applicant failed two or more sections of the practical examination, he must repeat the entire practical examination at the time of reexamination.

~~{3.—An applicant may not take the practical examination or any portion thereof more than three times within any 5 year period. If an applicant must retake only a portion of the practical examination and the applicant does not successfully complete that portion after his third attempt, he must at any future reexamination repeat the entire practical examination then being administered by the Board.}~~

Sec. 6. NAC 634A.116 is hereby amended to read as follows:

634A.116 1. A license issued to an alien automatically ~~terminates~~ *transfers to inactive status* if he loses his entitlement to remain and work in the United States.

2. A license issued to an alien after ~~November 25, 2002,~~ *June 17, 2008*, must state in a conspicuous manner:

This license is issued subject to any limitations imposed by the United States *Citizenship and Immigration Services of the* Department of ~~Justice, Immigration and Naturalization Service,~~ *Homeland Security*. This license becomes ~~void~~ *inactive* immediately upon the termination of the right of the person named herein to remain and work in the United States lawfully.

Sec. 7. NAC 634A.125 is hereby amended to read as follows:

634A.125 A person who is not a licensee may be issued a temporary certificate pursuant to NRS 634A.165 if:

1. The person submits an application to the Board, on a form provided by the Board, that includes:

- (a) The curriculum vitae of the applicant;
- (b) The specific topic concerning Oriental medicine or acupuncture which is the subject of the seminar, lecture or teaching;
- (c) The specific dates for which the temporary certificate is requested; and
- (d) Evidence that the person is competent with respect to the specific topic concerning Oriental medicine or acupuncture which is the subject of the seminar, lecture or teaching;

2. The person submits the appropriate fee for issuance of a temporary certificate pursuant to NAC 634A.165; and

3. The Board approves the application at a ~~regularly-scheduled~~ meeting ~~of~~ *of the Board*.

Sec. 8. NAC 634A.130 is hereby amended to read as follows:

634A.130 1. At the time a license is issued and on each renewal thereof, ~~an identification card~~ *a pocket license* bearing the expiration date of the license or renewal will be issued to each licensee, and he shall keep the ~~identification card~~ *pocket license* in his possession at all times during the performance of his professional services.

2. At the request of any patient or prospective patient, any member of the Board or any peace officer, the licensee shall permit the ~~identification card~~ *pocket license* to be inspected for the purpose of identification and as proof that all current fees have been paid.

Sec. 9. NAC 634A.135 is hereby amended to read as follows:

634A.135 1. Except as otherwise provided in this section, a licensee shall complete, during each calendar year, at least 10 hours of continuing education.

2. A licensee may only receive credit for hours of continuing education in courses that have been approved by the Board pursuant to NAC 634A.137.

3. Beginning with the 2003 calendar year, a licensee who earns more than 10 hours of credit for continuing education in any calendar year may carry forward up to ~~15~~ *10* hours of excess credit and apply such excess credit to the educational requirements for the next ~~two~~ calendar ~~years~~ *year* if the licensee indicates in writing, at the time he submits the form for renewal of his license pursuant to NRS 634A.167, that he intends to carry forward such excess credit.

4. A licensee who is not practicing in this State may request the Board to classify his license as inactive. A person who holds an inactive license is exempt from the requirements set forth in this section regarding continuing education.

5. A person who is requesting the Board to change the classification of his license from inactive to active must:

(a) Satisfy the requirements of continuing education for the year in which he seeks to reclassify his license;

(b) Submit proof to the Board that he has satisfied the applicable requirements; and

(c) Submit the fee set forth in NAC 634A.165.

Sec. 10. NAC 634A.160 is hereby amended to read as follows:

634A.160 1. If a license is revoked, the license and the ~~identification card~~ *pocket license* previously issued by the Board must be surrendered by the licensee to the Executive Director within 5 days after receipt of a notice of revocation.

2. If a license is suspended for a fixed period, the license and the ~~identification card~~ *pocket license* previously issued by the Board must be surrendered by the licensee to the Executive Director within 5 days after receipt of a notice of suspension.

3. If a license or ~~identification card~~ *pocket license* must be surrendered pursuant to subsection 1 or 2 but has been lost, stolen or destroyed, the licensee must complete and file an affidavit with the Board stating that the license or ~~identification card~~ *pocket license* has been lost, stolen or destroyed and that the licensee will immediately return the license or ~~identification card~~ *pocket license* if it is later recovered by the licensee.

4. If the license or ~~identification card~~ *pocket license* of a licensee is lost, stolen or destroyed, the licensee must:

(a) Complete and file an affidavit with the Board stating that the license or ~~identification card~~ *pocket license* has been lost, stolen or destroyed and that the licensee will immediately

return the license or ~~identification card~~ *pocket license* if it is later recovered by the licensee;
and

(b) Pay the fee set forth in NAC 634A.165 for replacement of the license or ~~identification card~~ *pocket license*.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. 193-07

The State Board of Oriental Medicine adopted regulations assigned LCB File No. R193-07 which pertain to chapter 634A of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

1. A workshop to discuss these changes was held on February 19, 2008 at the Grant Sawyer State Building in Las Vegas, NV. This workshop was noticed to the public on January 18, 2008 by posting on our website, e-mailing copies of the agenda and proposed regulation changes to all persons on our mailing list and posted at 22 places of business throughout Nevada as listed on the agenda and minutes for the 2/19/08 meeting. Public response was received by mail, e-mail, and personal testimony during the workshop. Copies of public responses will be made available to interested parties with written request to the Board.

As a result of some public comment received some regulations were extracted from the original R193-07. Some regulations will not be pursued at this time and other regulations were separated into a new LCB Draft number R224-05.

A hearing to adopt the remaining portion of R193-07 was held on April 10, 2008 and noticed to the public on March 11, 2008 also by posting on the website, e-mailing to all persons on our mailing list and posting at 22 places of business throughout Nevada as listed on the agenda and minutes for the 4/10/08 meeting.

2. The number of persons who:
 - (a) Attended the 2/19/08 workshop: 6 members of the Board and 10 members of the public.
Attended the 4/10/08 hearing: 7 members of the Board and 5 members of the public.
 - (b) Testified at the 2/19/08 workshop: 10 members of the public.
Testified at the 4/10/08 hearing: no testimony was taken by the Board during the hearing to adopt the regulation changes.
 - (c) Submitted written comments for the 2/19/08 workshop: 8
Submitted written comments for the 4/10/08 hearing: 5
3. Comment was solicited via posting notices and instructed to be received in written format via e-mail or mail. Copies of comment will be made available to interested parties with written request to the Board.
4. The regulations that remained in R193-07 were the least of the 'non controversial' regulation changes proposed and the most simple to place into effect immediately. For this reason they were voted on with no change by the Board.
5. There is no economic effect of the regulation on the business which the Board is to regulate or on the public.
6. There is no cost to the agency for enforcement of the adopted regulation.