

LCB File No. R071-02

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

NOTICE OF INTENT TO ACT UPON A REGULATION

**NOTICE OF PUBLIC WORKSHOP AND HEARING FOR THE ADOPTION,
AMENDMENT AND REPEAL OF REGULATIONS OF THE
STATE BOARD OF ORIENTAL MEDICINE.**

The State of Nevada Board of Oriental Medicine (hereinafter the "Board") will hold a public hearing on **June 1, 2002 at 9:00 A.M., at the GRANT SAWYER STATE BUILDING, 555 E. WASHINGTON AVE., ROOM 4401, LAS VEGAS, NEVADA 89104.** The purpose of the hearing is to receive comments from ALL interested persons regarding the adoption, amendment and repeal of regulations that pertain to chapter 634A of the Nevada Administrative Code ("NAC").

Las Vegas, Nevada

JUNE 1, 2002

9:00 A.M.

**GRANT SAWYER STATE BUILDING
555 E. WASHINGTON AVENUE, ROOM 4401.
LAS VEGAS, NEVADA 89101**

The following information is provided pursuant to the requirements of NRS 233B.060:

Information Regarding Adoption

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reasons for overruling the consideration urged against its adoption.

Information About Proposed Regulations

1. Purpose and need of the proposed regulations. The Board, is a State professional licensing Board, which administers and regulates licenses, education and compliance of said licenses under NRS 634A. The purpose of the regulations is to define and clarify the rights and responsibilities of persons licensed under this chapter.
2. Terms of the proposed regulations. The regulations to be adopted are stated as follows this notice.

3. Estimated Economic Effect. New costs that licensees and applicants will incur.
4. Estimated costs to the Board. The Board will incur costs of production of statute and regulation handbooks. Also, increased hours for the board's executive director to handle additional procedures created by proposed regulations.
5. Duplication with other Agencies. None known at this time, however, many of the proposed regulations have incorporated language from statutes from the following professional licensing boards: Homeopathic board, Chiropractic Board, Board of Medical Examiners, and the Physical Therapy Board.
6. Federal Law. None known at this time.
7. New Fee(s) Established. Application fee of \$400.00; initial background fees of \$300.00; License renewal fee reduced from \$500.00 to \$400.00; late renewal fee(s) within 90 days of Feb 1 - \$50.00, after 90 days of Feb. 1 - \$100.00; original application for use of fictitious name \$50.00; lost ID card replacement fee \$20.00; Replacement fee for lost certificate \$40.00; Original fee for board practical exam \$____; Re-examination fee \$300.00; license inactivation fee \$50.00; continuing education provider fee \$100.00; temporary certificate for lecturing purposes \$100.00; return check/insufficient fund fee \$25.00; copies of statutes and regulations (booklet) \$10.00; copy fee 25 cents per page.

Please note some of the aforementioned fines have not changed from what they are currently. Instead, they have just been placed in a list of fees for convenience.

Comments and Written Submissions

Persons wishing to comment on the proposed action of the Board may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form to:

**The State of Nevada, Board of Oriental Medicine
4475 South Pecos Road
Las Vegas, Nevada 89121
Attn: Executive Director, Kimberly A. Reese**

Written submissions must be received by the Board by **MAY 16, 2002**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

Copies of the Proposed Regulations

A copy of this notice and the proposed regulations 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 proposed regulation will be available at the Board's principal office:

**The State of Nevada, Board of Oriental Medicine
4475 South Pecos Road
Las Vegas, Nevada 89121**

And in all counties in which an office of the Board is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reasons for overruling the consideration urged against its adoption.

Posting

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

Carson City Library
900 North Rook Street
Carson City, NV 89701
Ph# 775-887-2244
Fax # 775-887-2273

Churchill County Library
553 South Maine Street
Fallon, NV 89406
Ph# 775-423-7581
Fax # 775-423-7766

Clark County/LV Library
833 Las Vegas Blvd., North
Las Vegas, NV 89101
Ph# 702-733-7810
Fax# 702-733-1567

Douglas County Library
1625 Library Lane, POB 337
Minden, NV 89423
Ph# 775-782-9841
Fax# 775-782-6766

Elko County Library
720 Court Street
Elko, NV 89801
Ph# 775-738-3066
Fax# 775-738-8262

Goldfield Public Library/Esmeralda Co.
Fourth & Crook St./POB 40
Goldfield, NV 89013
Ph# 775-485-3236
Fax# 775-485-3236

Eureka Branch Library
10190 Monroe Street/POB 293
Eureka, NV 89316
Ph# 775-237-5307
Fax# 775-237-5707

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445
Ph# 775-623-6388
Fax# 775-623-6438

Battle Mountain Branch Library
(Lander County)
625 Broad Street/PO Box 161
Battle Mountain NV 89820
Ph# 775-635-2534
Fax # 775-635-5520

Lincoln County Library
93 Main Street
POBox 330
Pioche NV 89043
Ph# 775-962-5244
Fax # 775-962-5244

Lyon County Library

20 Nevin Way
Yerington, NV 89447
Ph# 775-463-6645
Fax # 775-463-6500

Tonopah Public Library

(Nye County)
171 Central Street/PO Box 449
Tonopah, NV 89049
Ph# 775-482-3374
Fax#775-482-5143

Storey County Library

95 South R Street
PO Box 14
Virginia City, NV 89440
Ph# 775-847-0956
Fax # 775-847-0949

White Pine County Library

950 Campton Street
Ely, NV 89301
Ph# 775-289-3737
Fax # 775-289-1555

Mineral County Library

First & A Street/PO Box 1390
Hawthorne, NV 89415
Ph# 775-945-2778
Fax # 775-945-0703

Pershing County Library

1125 Central Avenue
PO Box 781
Lovelock, NV 89419
Ph# 775-273-2216
Fax # 775-273-7058

Washoe County Library

301 South Center Street
PO Box 2151
Reno, NV 89505
Ph# 775-785-4742
Fax # 775-785-4609

Nevada State Library & Archives

Capitol Complex
Carson City, NV 89710
Ph# 775-684-3360
Fax # 775-684-3330

PROPOSED REGULATION OF THE STATE BOARD OF ORIENTAL MEDICINE

Authority: NRS 634A.070(3)

NOTE: Matter *italicized* is new; matter in brackets **H** is material to be repealed or omitted.

Section 1. Chapter 634A of NAC is hereby amended by adding thereto section(s) 2-20 of these proposed regulations.

Section 2 *“Advertisement” defined. “Advertisement” includes, without limitation, calling cards, indoor and outdoor signs, stationary, listings in telephone and other directories, and advertisements in newspapers, magazines and by electronic means, including, advertisements placed on the internet.*

Section 3 *The term “a national organization of an examination in oriental medicine” defined. A national organization of an examination in oriental medicine means an organization which is accredited by the United States Education Department for Oriental Medicine. The following organizations have been approved by the Board to have met the aforementioned requirements:*
(a) *NCCAOM [Spell out NCCAOM].*

Section 4 *Approved 4 year Colleges of Oriental Medicine defined. ”Approved 4 year colleges of oriental medicine college” means a college or course of study or training, which:*
(1) *provides course(s) of study in:*
(a) *Acupuncture; (b) Moxibustion; (c) Herbology; (d) Oriental physiology; (e) Oriental pathology; (f) Oriental diagnosis; (g) Tuina;*
(h) *Biology; (i) physics; (j) chemistry; (k) biochemistry; (l) anatomy;*
(m) *western physiology; (n) western pathology; (o) western diagnosis; (p) pharmacology; (q) laboratory; (r) radiology;*
(2) *completes not less than 3000 school hours including not less than 2500 didactic hours and 150 semester credits in courses;*
(3) *is approved by the Board. SEE NAC 634A....*

Section 5 *“Approved Continuing education Course” defined. “Approved course” means a course or study or training for continuing education which is:*
(1) *Offered by a recognized provider of continuing education; and*
(2) *Approved by the Board for a specific number of units of continuing education.*

Section 6 *“Recognized provider of continuing education” defined. “Recognized provider of continuing education” means any person or organization approved by the Board to be a recognized provider of continuing education.*

Section 7 *“Unit of Continuing education” defined. “Unit of continuing education” means 10 hours of instruction in an approved course.*

Section 8 *Qualifications. To be eligible for licensure by the board as a doctor of oriental medicine, an applicant must:*

- 1. Be of good moral character;*
- 2. Have complied with the boards educational requirements as set forth in NRS and NAC chapter 634A; and*
- 3. Successfully complete the board practical examination.*

Section 9 *Application; Contents; Fee. A person who desires to be licensed by the board as a doctor of oriental medicine must;*

- 1. File an application, in writing, on a form provided by the board for licensure with the Executive Director of the board within 6 months before the date of the examination in which the applicant wishes to participate;*
- 2. An application must be completed in English by the applicant, and must be either typed or written.*
- 3. Include in his application his social security number and evidence, under oath, satisfactory to the board, that he possesses the qualifications required by NRS and NAC chapter 634A for licensure as a doctor of oriental medicine;*
- 4. Pay to the board at the time of filing his application a fee set by a regulation of the board in an amount not to exceed \$1000.00;*
- 5. Submit his fingerprints to the board with his application; and*
- 5. Submit other documentation and proof the may require.*

Section 10 *Successful completion of the National Examination. An applicant applying for licensure as a doctor of oriental medicine must successfully:*

- (a) Pass the national examination, as defined in NAC 645 ..., in both acupuncture and herbology within 2 years of the date of the applicants application or*
- (b) successfully demonstrate that he or she has been actively licensed and practicing oriental medicine in another jurisdiction approved by the board since successfully passing the national exam(s) in herbology and acupuncture.*

Section 11 *Use of Fictitious name; board approval required.*

- 1. A licensee shall not operate under a fictitious name unless he complies with chapter 602 of the NRS and files with the board a certified copy of the certificates issued by the county clerk. The board shall not issue more than one license nor register more than one licensee under the same name.*
- 2. Any licensee who wishes to practice under a fictitious name must submit an application to the board, on a form provided by the board. Said application is subject to board approval and must be accompanied by a \$50.00 fee.*

Section 12 *Loss of License.*

- 1. If a license must be surrendered and is not, the licensee shall file an affidavit with the board showing that the license has been lost, destroyed or stolen. The affidavit must contain the licensee's promise to return the license if it is recovered.*
- 2. If a license has been lost, destroyed or stolen the licensee must submit an affidavit stating such occurred and pay the appropriate fee for a replacement copy.*

Section 13 *Grounds for rejection of application. If it appears that:*

- 1. An applicant for licensure as a doctor of oriental medicine is not qualified or is not of good moral character or reputation;*
- 2. Any credential submitted is false; or*
- 3. The application is not made in proper form or other deficiencies appear in it, the application may be rejected.*

Section 14 *Termination of license issued to alien. A license issued to an alien automatically terminates if he loses his entitlement to remain and work in the United States. A license issued to an alien after January 1, 2002, must state in a conspicuous manner the following: "This license is issued subject to any limitations imposed by the United States Department of Justice, Immigration and Naturalization Service. This license becomes void immediately upon the termination of the right of the person named hereon to remain and work in the United States lawfully."*

Section 15 *NAC 634A.137 Temporary Certificate for Lecturing or Educational Seminars. A temporary certificate for lecturing or educational seminar(s) shall be issued by the Board, pursuant to NRS 634A.165 only after person(s) requesting such temporary certificate meet all of the following requirements:*

- (a) The person(s) requesting a temporary certificate submit an application to the Board. Said application must include, the lecturers curriculum vitae, the acupuncture or herbology topic seeking to be taught, the specific dates such temporary certificate is requested;*
- (b) Successful submission and approval by the Board of the lecturer(s) proof that he or she is licensed in the field of acupuncture or herbology in another state and/or the instructors competence is the area to which the lecturer will teach;*
- (c) submission of a \$100.00 application fee to the Executive Director of the Board; and*
- (d) Board approval of the aforementioned requirements during one of the Board's regularly scheduled meetings.*

Section 16 *Continuing education providers; Requirements. To be recognized and approved by the Board as a continuing education provider person(s) or entity(s) seeking such Board approval must:*

- (a) submit to the Board any and all materials relating to the curriculum to be taught to which describe, in detail, the subjects of the courses and names of the proposed instructors; and*
- (b) submit a \$100.00 application fee; and*
- (c) be approved by the Board during its regularly scheduled meeting.*

Section 17 *Failure to pay annual license renewal fees on or before February 1. Any licensee who fails to pay his or her annual license renewal fee on or before February 1 will have his license automatically suspended by the Executive Director of the Board pursuant to NRS 634A.*

Section 18 *NAC 634A_____ Fees; Amounts. The Board will charge and collect the following fees:*

<i>Original application for licensure as a doctor of oriental medicine.....</i>	<i>\$400.00</i>
<i>Initial background check fee(s).....</i>	<i>\$300.00</i>
<i>License renewal fee (received on or before Feb. 1).....</i>	<i>\$400.00</i>
<i>Late fee for License renewal fee (received within 90 days after Feb. 1).....</i>	<i>\$50.00</i>
<i>Late fee for License renewal fee (received after 90 days after Feb. 1).....</i>	<i>\$100.00</i>
<i>Original application for use of fictitious name</i>	<i>\$50.00</i>
<i>Replacement fee for lost identification card.....</i>	<i>\$20.00</i>
<i>Replacement fee for lost license certificate.....</i>	<i>\$40.00</i>
<i>Original fee board practical exam.....</i>	<i>\$_____</i>
<i>Re-examination fee for board practical exam.....</i>	<i>\$300.00</i>
<i>License inactivation fee.....</i>	<i>\$50.00</i>
<i>Application fee for a review of a continuing education course offered by a provider for approval.....</i>	<i>\$100.00</i>
<i>Application for temporary certificate for lecturing or training.....</i>	<i>\$100.00</i>
<i>Return check/insufficient funds fee.....</i>	<i>\$25.00</i>
<i>Copies of statutes and regulations.....</i>	<i>\$10.00</i>
<i>Copies charge (per page)</i>	<i>25 cents</i>

Section 19 *Filing of petition; copies. The petition must be filed with the board. The original and 12 copies of the petition must be filed, together with the original and 12 copies of the proposed regulation.*

Section 20 *Time limit for request to board for consideration or action upon a matter at meeting. A request for the board to consider or take action upon a matter at a meeting must be received by the board at least 15 business days before the date of the meeting.*

Section 21 Amend NAC 634A.010 as follows: **NAC 634A.010 Office of board.** The principal office of the board is the office of that person designated as the ~~secretary-treasurer~~ **Executive Director** of the board. The office of the board will be open during regular business hours.

Section 22 Amend NAC 634A.030 as follows: **NAC 634A.030 Copy of regulations and records of board.** Persons requesting a copy of the regulations of the board will be charged ~~[\$1]~~ **\$10.00** to cover the cost of copying, handling and mailing. Persons requesting copies of other records of the board which are open and available to the public by law will be charged ~~[20]~~ **25** cents per page for all copies.

Section 23 Amend NAC 634A.040 as follows:

NAC 634A.040 Doctors of Oriental medicine, ~~acupuncture or herbal medicine~~: Evidence of education.

1. Each applicant for a license to practice Oriental medicine, ~~acupuncture or herbal medicine~~ must present evidence satisfactory to the board which discloses in detail the formal schooling or other type of training the applicant has previously undertaken which qualifies him as a practitioner of Oriental medicine, acupuncture or herbal medicine.

2. Satisfactory evidence of formal schooling or other training ~~may~~ **must** include, but is not limited to, certified copies of diplomas, transcripts and licenses, if any, issued to an applicant by

any college or university in the United States or any foreign country. [the Government of the Republic of China (Taiwan), the People's Republic of China, Korea or Japan.]

3. ~~[Whenever possible,]~~ all copies of official diplomas, transcripts and licenses or certificates must be forwarded directly to the board's *Executive Director* from the issuing agency rather than from the applicant.

Section 24 Amend NAC 634A.040 as follows:

NAC 634A.045 Doctors of Oriental medicine, ~~[acupuncture or herbal medicine]~~: Evidence of experience. An applicant for a license to practice as a doctor of Oriental medicine, ~~[a doctor of acupuncture or a doctor of herbal medicine]~~ must present satisfactory evidence to the board that he has practiced such a healing art full time for a minimum of ~~[6]~~ 4 years before the date of his application.

Section 25 Amend NAC 634A.050 by deleting it in its entirety as follows:

~~[NAC 634A.050 Assistants in acupuncture: Evidence of education:~~

~~—1. An applicant for a license as an assistant in acupuncture must present to the board satisfactory evidence that shows in detail his successful completion of a 3 year course of study in acupuncture in any school or college approved by the board in any country, territory or province teaching such a skill.~~

~~—2. Satisfactory evidence of formal schooling or other equivalent training totaling 1400 or more hours of study may include, but is not limited to, certified copies of diplomas, transcripts or licenses issued by the Republic of China (Taiwan), the People's Republic of China, Korea or Japan.~~

~~—3. An applicant for a license as an assistant in acupuncture may submit with his application a certificate or license issued by the Republic of China (Taiwan), the People's Republic of China, Korea or Japan, which acknowledges that the applicant possesses the necessary qualifications to practice acupuncture.~~

~~—4. Whenever possible, all copies of official diplomas, transcripts, licenses or certificates must be forwarded directly to the board from the issuing agency rather than from the applicant.]~~

Section 26 Amend NAC 634A.055 as follows:

NAC 634A.055 English requirement.

1. ~~[Except as otherwise provided in subsection 2,]~~ each applicant for a license must demonstrate at the time of examination a reasonable proficiency in the English language through an oral interview. *If an applicant has graduated from a foreign school or college, he or she must take and successfully pass the TOEFLE exam with a score of not less than 550 before taking the board practical examination.*

2. *Subparagraph (1) is waived if the applicant successfully demonstrates to the Board that he or she graduated from and accredited high school or college located within the United States.*

~~[2. No applicant for a license as an assistant in acupuncture is required to satisfy the English requirement of this section.]~~

Section 27 Amend NAC 634A.060 by deleting it in its entirety as follows:

~~[NAC 634A.060 Applicants failing examination: Alternative license as assistant in acupuncture. An applicant for a license as a doctor of Oriental medicine or a doctor of~~

~~acupuncture whose grade on the examination given by the board falls below that required for a person to be licensed as a doctor of Oriental medicine or a doctor of acupuncture may be licensed as an assistant in acupuncture if he meets the standards set by the board for such a position.]~~

Section 28 Amend NAC 634A.065 by deleting it in its entirety as follows:

~~[NAC 634A.065 Relicensure of assistants in acupuncture as doctors: Generally. A person who is licensed as an assistant in acupuncture and who desires to be licensed as a doctor of Oriental medicine or a doctor of acupuncture may appear before the board at any regular meeting to demonstrate his proficiency in English, and if the licensee meets all the other requirements of NRS 634A.140, he may be relicensed as a doctor of Oriental medicine or a doctor of acupuncture without an additional examination or fee.]~~

Section 29 Amend NAC 634A.070 by deleting it in its entirety as follows:

~~[NAC 634A.070 Relicensure of assistants in acupuncture as doctors: Examination.~~
~~—1. If a person is licensed by the board as an assistant in acupuncture because he lacks the number of years of experience required by NRS 634A.140 or the ability to communicate reasonably in the English language, the person, if his score on the examination would ordinarily have qualified him for licensure as a doctor of Oriental medicine or a doctor of acupuncture, will automatically be relicensed as a doctor of Oriental medicine or doctor of acupuncture, as appropriate, when the person submits satisfactory evidence to the board that he is reasonably fluent in the English language.~~
~~—2. An assistant in acupuncture whose original test score was below the level required for licensure as a doctor of Oriental medicine or a doctor of acupuncture must pass another examination before his license will be upgraded to that of doctor.]~~

Section 30 Amend NAC 634A.080 by deleting it in its entirety as follows:

~~[NAC 634A.080 Applications:~~
~~—1. Applications for a license to practice Oriental medicine, or any branch thereof, must be filed with the secretary treasurer Executive Director of the board at least 6 months before the date of the examination in which the applicant wishes to participate.~~
~~—2. An application must be completed in English by the applicant, and must be either typed or written.]~~

Section 31 Amend NAC 634A.100 as follows:

NAC 634A.100 *Board Practical Examination.*

1. ***The Board's Practical Examination*** Examinations will be given in June and December of each year.
2. During the examination, only ~~[members of the board,]~~ the testing consultant, the applicants, ~~[or others specifically requested by the board to be present,]~~ will be allowed in the examination rooms.
3. Various sections of the examination may be given in written, oral or demonstrative form.
4. As a part of any examination, the board may examine an applicant as to his ~~[basic knowledge of anatomy, physiology, bacteriology, biochemistry, pathology]~~ ***knowledge of the following subjects;***
 - (a) ***needling demonstration on a patient or applicant himself;***

- (b) sterilization skills;*
- (c) use and skill of herbs;*
- (d) basic medical science;*
- (e) State of Nevada Regulations on Health and Safety Laws;*
- (f) proficient use of the English language.*

~~[5. Each applicant for a license as a doctor of Oriental medicine, a doctor of acupuncture or an assistant in acupuncture shall bring with him to the examination, at his own expense, his own needles and other equipment necessary for demonstrating his skill and proficiency in acupuncture.]~~

6. Each applicant shall take the examination in the English language.

7. An applicant for licensure must receive an overall score of ~~[70]~~ 75 percent on the examination ~~[and 60 percent on all of its sections or subparts]~~ to pass the examination.

8. An applicant may only sit for the board practical exam upon a showing of successful completion of the National examination in both herbology and acupuncture, as required by NAC 634A....

9. The Executive Director shall notify the applicant of the time and place of the examination not later than 20 days before the date scheduled for the examination.

Section 32 Amend NAC 634A.110 as follows:

NAC 634A.110 Reexaminations.

1. An applicant for a license from the board who has failed an examination may apply for reexamination by the board no earlier than 6 months after the date of the examination failed by the applicant. A person seeking reexamination shall notify the ~~[secretary treasurer]~~ *Executive Director* of the board by completing a form prescribed by the board and submitting therewith a fee of ~~[\$100]~~ \$300.00.

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

3. Any applicant for a license may take the prescribed examination or any portion thereof no more than three times within any 5-year period. If an applicant must retake only a portion of an examination and the applicant does not successfully complete that portion after his third attempt, he must at any future reexamination repeat the entire examination then being administered by the board.

Section 33 Amend NAC 634A.120 by deleting it in its entirety as follows:

~~[NAC 634A.120 Conflicts of interest. No member of the board or the Oriental medicine advisory committee will participate in preparing, examining or grading an examination or in any other decision made with respect to any applicant to whom the member is related in the third degree of affinity or consanguinity.]~~

Section 34 Amend NAC 634A.135 as follows:

NAC 634A.135 Requirements for continuing education; placement of license on inactive status; reinstatement to active status.

1. A person licensed to practice Oriental medicine or any branch thereof shall complete, during each calendar year, at least 10 hours of continuing education.

2. The continuing education must be in a subject relating to the field of Oriental medicine or acupuncture, or both, must be provided to licensees in a format of personal instruction, including in a classroom or at an educational seminar, and must be approved by the board. As used in this subsection, “personal instruction” does not include instruction provided in a video format.

3. 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.

4. 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; and

(b) Submit proof to the board that he has satisfied the applicable requirements, and

(c) *Submit his ~~[\$500.00]~~ \$400.00 annual renewal fees to the Board.*

Section 35 Amend NAC 634A.140 as follows:

NAC 634A.140 ~~[Registration]~~ Annual license renewal fees.

1. Each person who holds a license to practice *as a doctor of oriental medicine* ~~[Oriental medicine, acupuncture or herbal medicine shall]~~ *must [pay] submit* to the board an annual *license renewal [registration]* fee *of \$400 on or before February 1 of each year.*

~~[2.—Each person who holds a license to act as an assistant in acupuncture shall pay to the board an annual registration fee of \$500.]~~

Section 36 Amend NAC 634A.150 as follows:

NAC 634A.150 Failure to pay ~~[registration]~~ annual license renewal fees on or before February 1. Any person whose license has been suspended and/or canceled pursuant to NRS 634A.160 ~~[and who desires another license from the board]~~ *by the Executive Director of the Board* may have his *or her* license reinstated if he or she *within 90 days after February 1:*

1. ~~[Pays]~~ *Submits* to the board all annual ~~[registration]~~ *renewal* fees due at the time of reinstatement for all years in which the fees were not paid *and to which license inactive status was not requested; [or]*

2. ~~[Successfully completes the examination then being prescribed by the board for new licensees.]~~ *Submits a \$50.00 late renewal fee; and*

3. *Successfully complies with the Board’s current continuing education requirements for license renewal.*

4. *If the licensee fails to pay his renewal fee within 90 days after February 1(NRS 634A.160) the licensee, license may only be reinstated by the Board, during a regularly scheduled Board meeting. In addition, a \$100.00 late renewal fee will be imposed.*

Section 37 Amend NAC 634A.160 as follows:

NAC 634A.160 Surrender of license and identification card when license revoked or suspended.

1. If a license is revoked, the license and the identification card previously issued by the board must be surrendered by the licensee to the ~~[secretary-treasurer]~~ *Executive Director* of the board within 5 days of receipt of a notice of revocation.

2. If a license is suspended for a fixed period, the license and the identification card previously issued by the board must be surrendered by the licensee to the ~~[secretary-treasurer]~~

Executive Director of the board within 5 days after receipt of a notice of suspension. ~~[The license and identification card will be returned to the licensee upon the termination of the suspension.]~~

Section 38 Amend NAC 634A.170 as follows:

NAC 634A.170 Causes for disciplinary action. The board considers the following acts to be unethical and unprofessional conduct warranting appropriate disciplinary action:

1. The division or “splitting” of fees with another licensee, unless the other licensee has actually rendered services, other than referral, to the first licensee in connection with one or more of his patients. A person licensed by this board shall not:

(a) Employ another to solicit or obtain, or remunerate another for soliciting or obtaining, professional employment for the licensee.

(b) Directly or indirectly share with an unlicensed person any compensation arising out of or incidental to professional employment.

(c) Directly or indirectly aid or abet an unlicensed person to practice Oriental medicine, acupuncture or herbal medicine or to receive compensation therefrom.

2. The use of any testimonial, whether paid for or not, to solicit or encourage use of the licensee’s services by members of the public.

3. The making or publishing, or causing to be made or published, any advertisement, offer, statement or other form of representation, oral or written, which directly or by implication is false, misleading or deceptive. It is sufficient in bringing any proceeding for violation of this subsection that any advertising of the type referred to has a tendency to deceive, mislead or be harmful to the public even though no member of the public is actually deceived, misled or harmed by the advertising.

4. The use of any fictitious name that has not been approved by the board.

Section 39 Amend NAC 634A.190 by deleting it in its entirety as follows:

~~[NAC 634A.190 Restrictions on procedures performed by assistants in acupuncture:~~

~~—1. A person licensed as an assistant in acupuncture is restricted in his activities to only those procedures which a licensed, supervising doctor of Oriental medicine or a doctor of acupuncture may request him to do by a written order.~~

~~—2. An assistant in acupuncture may not perform any diagnosis of patients or recommend or prescribe any forms of treatment or medication.~~

~~—3. An assistant in acupuncture may treat patients only under the direct supervision of a doctor of Oriental medicine or a doctor of acupuncture who is on the same premises where the treatment is to be given.]~~

Section 40 Amend NAC 634A.200 by deleting it in its entirety as follows:

~~[NAC 634A.200 Supervision of assistants in acupuncture. A doctor of Oriental medicine or a doctor of acupuncture shall not employ or attempt to supervise more than one assistant in acupuncture.]~~

Section 41 Amend NAC 634A.230 as follows:

NAC 634A.230 Refund of fee for application; reject of application; Fees and remittances.

1. Fees and remittances must be paid to the board by money order, bank draft or check payable to "State Board of Oriental Medicine." Remittances in currency or coin are wholly at the risk of the remitter and the board assumes no responsibility for their loss. Postage stamps will not be remitted.

2. ~~[The board may refund any part of the application fee to an applicant for good cause shown.]~~ *The board will not refund any portion of the fee for application if an applicant:*

(a) Does not complete his application by providing all the documentation as required by the form for application within 6 months after the actual date of filing of the form by the applicant;

(b) withdraws his application; or

(c) Dies before he is issued a license by the board.

3. *Applications which are not completed within 6 months, an applications received without sufficient funds will be rejected by the Executive Director.*

4. *A \$25.00 fee will be imposed by the Board against any licensee or applicant whose check or payment is returned for insufficient funds.*

Section 42 Amend NAC 634A.370 as follows:

NAC 634A.370 Complaints: Contents; joinder of causes; filing.

1. Upon the initiative of any interested person, or upon the initiative of any member of the board, a complaint may be made alleging one or more causes of action based on chapter 634A of NRS. ~~[Facts constituting acts or omissions must be stated with such particularity as to enable the respondent to prepare a defense to the complaint. All applicable citations, statutes, regulations or orders of the board must be stated with the dates on which the acts or omissions occurred. If more than one cause of action is alleged, each cause of action must be stated and numbered separately.]~~

2. *The licensee must be given at least 30 days notice in writing by the board of the date, time and place of the hearing together with a copy of the complaint and copies of all communications, reports, affidavits or depositions in possession of the board relevant to the complaint. The board may only present evidence obtained after the notice only if the board shows that the evidence was not available after diligent investigation before the time of notice was given to the licensee and that the evidence was given or communicated to the licensee immediately after it was received.*

2. Two or more complainants may join in one complaint if their respective causes of action are against the same person and deal with substantially the same violation of a law, regulation or order of the board.

3. Every complaint must be in writing and must be filed with the ~~[secretary-treasurer]~~ *Executive Director* of the board.

4. Complaints will be set for hearing at the earliest convenience of the board, unless notice of satisfaction of the complaint, by answer or otherwise, is received by the board.

Section 42 Amend NAC 634A.370 as follows:

NAC 634A.380 Answers.

~~[1. Upon receipt of a verified complaint, the board will forward a copy thereof to the party or parties against whom the complaint is made. The party or parties may respond to the complaint by filing an answer within 20 days of receipt thereof.]~~

~~—2. If a party fails to answer within 20 days, he shall be deemed to have denied generally the allegations of the complaint.]~~

1. *The licensee shall file an answer to the charges with the board no later than 20 days after service of the notice and other documents described in Subsection 2 of NAC 634A.370. The answer must contain an admission or denial of the allegations contained in the complaint and any defenses upon which the licensee will rely. If no answer is filed within the time limit prescribed in this subsection, the board may, after notice to the licensee served in a manner authorized subsection 1 of NAC 634A.410, move for entry of default against the licensee.*

2. *The answer may be served by delivery to the board principal office, or by mailing the answer by certified mail to the principal office of the board.*

Section 43 Amend NAC 634A.410 as follows:

NAC 634A.410 Service of process.

1. All *complaints*, notices, opinions and documents required to be served by the board, other than decisions or orders, and all documents filed by any party *must be done in compliance with Nevada Rules of Civil Procedure 4*. ~~[may be served by mail, and service thereof shall be deemed complete when a copy of the paper or document, properly addressed and stamped, is deposited in the United States mail.~~

~~—2. Parties will be notified either personally or by certified mail of any decision or order.]~~

Section 44 Amend NAC 634A.420 by deleting it in its entirety as follows:

~~[NAC 634A.420 Proof of service. There will appear on all documents required to be served by the board, other than decisions or orders, an acknowledgment of service or the following certificate:~~

~~I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding (by delivering a copy thereof in person to) (by mailing a copy thereof, properly addressed, with postage prepaid, to):~~

~~—Dated at, this(day) of(month) of(year)~~

.....
-----Signature]

Section 45 Amend NAC 634A.430 as follows:

NAC 634A.430 Hearings held before board: Location; notice.

1. Hearings will be held at such place in the state as is designated by the board in the notice of the hearing *and in compliance with NRS 233B and NRS 241*.

2. A hearing which has previously been continued may be reset *upon a good faith/cause showing* and at least *15 days* ~~[on]~~ notice ~~[of at least 10 days]~~.

Section 46 Amend NAC 634A.440 as follows:

NAC 634A.440 Continuances; procedure.The board may before a hearing or during a hearing, on proper *good faith* showing, grant a continuance for the submission of further or additional proof of any subject *relevant to the hearing*. *Requests for continuances of matter set for hearing before the board must be received 7 business days before the scheduled hearing and will be granted upon a good faith showing.*

Section 47 Amend NAC 634A.450 as follows:

NAC 634A.450 Failure of party to appear.

1. If a party fails to appear at a hearing scheduled by the board and no continuance has been requested or granted, the board may hear the evidence of such witnesses as may have appeared and the board may proceed to consider the matter and dispose of it on the basis of the evidence before it.

2. If, because of accident, sickness or other reasonable cause, a person fails to appear for a hearing scheduled by the board or fails to request a continuance thereof, the person may, within a reasonable period of time not to exceed 15 days, apply to the ~~[secretary-treasurer]~~ **Executive Director** of the board to reopen the proceedings, and the board, upon finding such cause sufficient and reasonable, will immediately fix a time and place for a hearing and give the person notice thereof. At the time and place fixed, the person may testify in his own behalf or present such other evidence as may be beneficial to his cause. Witnesses who have previously testified are not required to appear at the second hearing unless so directed by the board.

Section 48 Amend NAC 634A.460 as follows:

NAC 634A.460 Subpoenas.

1. Subpoenas requiring the attendance of a witness at a hearing may be issued by the ~~[secretary-treasurer]~~ **President** of the board upon application in writing.

2. Subpoenas for the production of documents, books or other records, unless issued by the board on its own motion, will be issued only upon application in writing. The application must specify, as clearly as possible, the documents, books or other records desired.

3. The board, at or before the time specified in the subpoena for compliance therewith, may:

(a) Quash the subpoena if it is unreasonable or oppressive; or

(b) Condition denial of a motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the documents, books or other records desired.

Section 49 Amend NAC 634A.480 as follows:

NAC 634A.480 Preliminary procedure. The ~~[presiding-member]~~ **President** of the board shall call the proceeding or hearing to order and proceed to take the appearances and act upon any pending motions. The parties may then make opening statements.

Section 50 Amend NAC 634A.560 as follows:

NAC 634A.560 ~~[Form of]~~ petition for declaratory order, advisory opinion; procedure for consideration.

~~1. All petitions for declaratory orders and advisory opinions must be in writing using substantially the format of Form No. 1.*~~

~~2. Upon submission of a petition for a declaratory order or advisory opinion, the board will, within 30 days, either deny the petition in writing, stating its reasons, or initiate proceedings pursuant to NRS 233B.060.~~

~~*See adopting agency for form.]~~

1. A petition for a declaratory order or advisory opinion may be filed by a holder of or an applicant for a license or permit to practice as a doctor of oriental medicine.

2. The original and seven copies of the petition must be filed with the executive director of the board not less than 10 days before the next regularly scheduled meeting of the board. The executive director will submit the petition to the board at that meeting. Within 30 days after the meeting, the board will issue its declaratory order or advisory opinions.

Section 51 Amend NAC 634A.570 as follows:

NAC 634A.570 Petitions requesting adoption, amendment or repeal of regulations.

~~[1. All petitions requesting the adoption, filing, amendment or repeal of any regulation must be in writing using substantially the format of Form No. 2.*~~

~~—2. A copy of any denial or other correspondence from the board to the petitioner will be served by mailing a copy thereof to the petitioner.~~

~~*See adopting agency for form.]~~

A petition requesting the adoption, filing, amendment or repeal of any regulation must be accompanied by a draft of the proposed regulation in a form suitable for filing with the secretary of state.