

# PROPOSED REGULATION OF THE STATE BOARD OF ORIENTAL MEDICINE

LCB File No. R072-14

May 2, 2014 Draft

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

AUTHORITY: §3, NRS 634A.070

**Section 1.** NAC 634A.080 is hereby amended to read as follows:

**NAC 634A.080 Evidence of qualifications of applicant; approval of program of study.**  
**(NRS 634A.070, 634A.080, 634A.140)**

1. An applicant for a license to practice Oriental medicine must submit, together with his or her application, evidence that he or she has successfully completed an accredited 4-year program of study, or its equivalent, in Oriental medicine at a school or college of Oriental medicine which is approved by the *Accreditation Commission for Acupuncture and Oriental Medicine*.

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 earned a bachelor's degree from an accredited college or university in the United States *that meets the criteria under this section*.

3. If the application is submitted pursuant to subsection 2 of NRS 634A.140, the applicant must submit evidence that he or she has lawfully practiced Oriental medicine in another state or foreign country for at least 4 years.

~~4. 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:~~

~~—(a) The program of study includes training or instruction in the subjects of acupuncture, moxibustion, herbology, Oriental physiology, Oriental pathology, Oriental diagnosis, tuina, biology, physics, chemistry, biochemistry, anatomy, Western physiology, Western pathology, Western diagnosis, pharmacology, laboratory and radiology; and~~

~~—(b) The program of study:~~

~~—(1) 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) 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.~~

5. For the purposes of subsections 2 and 3, 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.

**Section 2.** NAC 634A.085 is hereby amended to read as follows:

**NAC 634A.085 Compliance with requirement of passing examination administered by national organization. (NRS 634A.070, 634A.120)** 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}~~ *examination in Oriental Medicine or Acupuncture and Chinese Herbology* administered by a national organization approved by the Board.

**Section 3.** NAC 634A.090 is hereby amended to read as follows:

**NAC 634A.090 Investigation of applicant: Prerequisite to practical examination. (NRS 634A.070, 634A.110)**

1. 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}~~ *the Accreditation Commission for Acupuncture and Oriental Medicine*;

(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 or she has applied before the investigation of his or her background and training has been completed}.~~

**Section 4.** NAC 634A.095 is hereby amended to read as follows:

**NAC 634A.095 Proficiency of applicant in English language. (NRS 634A.070, 634A.120)**

1. Except as otherwise provided in subsection 2, an applicant for a license to practice Oriental medicine must:

(a) Before taking the practical examination, pass the Test of English as a Foreign Language with a score of at least ~~{550}~~ *500 on the written exam or receive a speaking score of 26 and a listening score of 22 for a total of at least 61 on the IBT*; 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.

**Section 5.** NAC 634A.100 is hereby amended to read as follows:

**NAC 634A.100 Practical examination of applicant. (NRS 634A.070, 634A.120)**

1. The practical examination will be given in June and December of each year. 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.}~~

2. During the practical examination, only the testing consultant and the applicants will be allowed in the examination rooms.

3. Various sections of the practical examination may be given in written, oral or demonstrative form.

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

~~{(a) Needling. The Board may require a demonstration of needling on a patient or on the applicant himself or herself.}~~

(a) ~~{(b)}~~ Skills pertaining to sterilization *requirements*.

(b) ~~{(c)}~~ Skills pertaining to the use of herbs.

(c) ~~{(d)}~~ Basic medical science concerning anatomy, physiology, pathology, biochemistry, bacteriology and communicable diseases.

(d) ~~{(e)}~~ Applicable laws and regulations pertaining to health and safety.

(e) ~~{(f)}~~ Use of the English language, as described in NAC 634A.095.

5. Each applicant shall take the practical examination in the English language.

6. An applicant must receive an overall score of 75 percent on the practical examination. ~~{and 60 percent on all of its sections or subparts to pass the practical examination.}~~

**Section 6.** NAC 634A.110 is hereby amended as follows:

**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.

**Section 7.** NAC 634A.121 is hereby amended as follows:

**NAC 634A.121 Practice under fictitious name; prohibition against multiple licenses and registration under same name. (NRS 634A.070)**

1. A licensee shall not operate under a fictitious name unless the licensee complies with chapter 602 of NRS and files with the Board a certified copy of the certificates issued by the county clerk.

2. Any licensee who wishes to practice under a fictitious name must submit to the Board an application, on a form provided by the Board, accompanied by a fee of ~~+\$50~~ \$30.

3. The Board will not issue more than one license or register more than one licensee under the same name.

**Section 8.** NAC 634A.135 is hereby amended as follows:

**NAC 634A.135 Continuing education; placement of license on inactive status; reinstatement to active status. (NRS 634A.070, 634A.167)**

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}~~ *National Certification Commission for Acupuncture and Oriental Medicine*.

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 10 hours of excess credit and apply such excess credit to the educational requirements for *only* the next calendar year if the licensee indicates in writing, at the time he or she submits the form for renewal of his or her license pursuant to NRS 634A.167, that the licensee intends to carry forward such excess credit.

*4. Licensees may complete up to 50% of their CE requirements through distance education courses (courses completed on an independent or home study basis).*

5. ~~{4}~~ A licensee who is not practicing in this State may request the Board to classify his or her license as inactive. A person who holds an inactive license is exempt from the requirements set forth in this section regarding continuing education.

6. ~~{5}~~ A person who is requesting the Board to change the classification of his or her license from inactive to active must:

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

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

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

**Section 9.** Create a new section or amend NAC 634A to add the following language:

*Notification of Board regarding certain changes in circumstances; administrative fine. (NRS 634A.070)*

*1. Each person who holds an active or inactive license to practice Oriental medicine shall notify the Board of any change in his or her residential address, telephone number, electronic mail address or other contact information within 30 days after such a change.*

*2. If the Board imposes an administrative fine on a licensee for a violation of subsection 1, the amount of the fine will be at least \$50 for a first violation and at least \$100 for a second or subsequent violation.*

**Section 10.** NAC 634A.165 is hereby amended as follows:

**NAC 634A.165 Fees of Board. (NRS 634A.070, 634A.110, 634A.160, 634A.165)** The Board will charge and collect the following fees:

Original application for licensure as a doctor of Oriental medicine.....	\$1,000.00
Renewal of active license before February 1.....	<del>700.00</del> \$500
Renewal of inactive license before February 1.....	<del>500.00</del> \$700
Penalty for late renewal of license within 90 days after February 1.....	<del>100.00</del> \$200
Penalty for late renewal of license more than 90 days after February 1.	<del>200.00</del> \$300
Penalty for reinstatement of cancelled license.....	200.00
Original application for use of fictitious name.....	<del>100.00</del> \$30
Replacement of pocket license.....	<del>100.00</del> \$25
Replacement of license.....	<del>200.00</del> \$100
Original fee for practical examination.....	1,000.00
Reexamination fee for practical examination.....	500.00
Transfer of license from active status to inactive status.....	200.00
Transfer of license from inactive status to active status.....	500.00
Approval of course of continuing education	100.00
Temporary certificate for lecturing or training.....	100.00
Check returned for insufficient funds.....	25.00
For copies of this chapter and chapter 634A of NRS.....	10.00
For other copies, per page.....	0.25
For other copies, per compact disc or tape recording.....	20.00
Original application fee for a school or college of Oriental medicine...	5,000.00
Annual fee for approval of curriculum before February 1.....	5,000.00

**Section 11.** NAC 634A.170 is hereby amended as follows:

**NAC 634A.170 Grounds for disciplinary action. (NRS 634A.070, 634A.170)** 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 or her 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~~ *paid* 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. As used in this subsection, “advertisement” includes, without limitation:

(a) Any calling card, indoor or outdoor sign, stationery, or listing in a telephone directory or other directory;

(b) Any advertisement in a newspaper or magazine; and

(c) Any advertisement made through electronic means, including, without limitation, an advertisement placed on the Internet.

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

*5. Making false, misleading, or deceptive statements or providing false, misleading, or deceptive information in connection with an application for licensure or disciplinary investigation or proceeding.*

*6. Violating the Board's Code of Ethics, Examination Policies, or other regulations or procedures.*

*7. Misrepresenting professional credentials (i.e. education, training, experience, level of competence, skills, and/or certification status).*

*8. Exceeding the scope of practice as defined by law.*

*9. Engaging in negligent billing or recordkeeping.*

*10. Performing services without obtaining informed consent.*

*11. Failing to maintain patient/practitioner confidentiality.*

*12. Failing to maintain professional boundaries in relationships with patients, or in any way exploiting the practitioner/patient trust.*

*13. Engaging in sexual contact with a current patient if the contact commences after the practitioner/patient relationship is established.*

*14. Engaging in sexual contact with a former patient unless a period of six (6) months has elapsed since the date that the professional relationship ended. The sexual relationship must not exploit the trust established during the professional relationship.*

*15. Violating prevailing standards of the certified profession relating to safe, ethical, and/or competent practice.*

*16. Being the subject of final disciplinary action that relates to the practice of any health care profession or fitness to practice.*

*17. Having a license to practice subject to reprimand, limitation, suspension or revocation in any state or jurisdiction.*

*18. Engaging in conduct that evinces a lack of knowledge of, or lack of ability in, or failure to apply the prevailing principles and/or skills of the profession for which the individual has been licensed.*