

CHAPTER 01 – NORTH CAROLINA ACUPUNCTURE LICENSING BOARD

SECTION .0100 - LICENSURE

21 NCAC 01 .0101 APPLICATION AND PRACTICE REQUIREMENTS FOR LICENSURE

In addition to and for the purposes of meeting the requirements of G.S. 90-455, an applicant for licensure to practice acupuncture shall satisfy requirements one through six and eight listed below or requirements one through five and requirements seven and eight listed below:

- (1) Submit a completed application;
- (2) Submit fees as required by Rule .0103 of this Section;
- (3) Ensure that an official copy of a diploma, transcript, license or certificate, examination score, or other document required for application is forwarded directly to the Board by the issuing entity or its successor organization or designated state agency. Documents shall have an official or government seal or written verification authenticating the document;
- (4) If the applicant sat for the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination on or before June 30, 2004, the applicant shall submit proof that he or she passed the acupuncture written exam and the point location exam as established and determined by NCCAOM or its successor organization. If the applicant sat for the licensing examination after June 30, 2004, the applicant shall submit proof that he or she passed, as determined by NCCAOM, the following four NCCAOM modules: Foundations of Oriental Medicine, Acupuncture, Biomedicine and Point Location;
- (5) Submit proof that he or she passed the Clean Needle Technique course as offered and determined by the Council of Colleges of Acupuncture and Oriental Medicine (CCAOM) or its successor organization;
- (6) Submit proof of satisfying the education requirements listed below:
 - (a) US Trained Applicants. All U.S. trained applicants shall graduate from a three-year postgraduate acupuncture college, accredited by or in candidacy status by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) or its successor organization.
 - (b) Foreign Trained Applicants. All foreign trained applicants shall graduate from a postgraduate acupuncture college that meets the curricular requirements of ACAOM. The college shall also be approved by either:
 - (i) A foreign government's Ministry of Education;
 - (ii) A foreign government's Ministry of Health;
 - (iii) A governmental agency that is comparable to a division or department of the US Government charged with educational accreditation; or
 - (iv) A private foreign accreditation agency that has an accreditation process and standards substantially equivalent to that of ACAOM, and that is recognized for that purpose by the substantially equivalent governmental entity in that foreign country. The educational institutions shall meet the curricular requirements of ACAOM.
 - (c) The documents substantiating that the U.S. trained applicant has met the specified requirements shall be submitted as follows:
 - (i) The educational program or governmental agency from which the applicant received the certificate or diploma shall send an official copy of the applicant's transcript directly to the Board in a sealed envelope.

(ii) By its submission of this transcript, the program or agency shall verify the applicant's satisfactory completion of the required ACAOM academic and clinical education and designate the completed courses and the hours of study completed in each subject.

(d) The documents substantiating that the Foreign trained applicant has met the specified requirements shall be submitted as follows:

(i) The educational program or governmental agency from which the applicant received the certificate or diploma shall send an official copy of the applicant's transcript directly to the Board in a sealed envelope;

(ii) By submission of this transcript, the program or agency shall verify the applicant's satisfactory completion of his or her clinical education and designate the completed courses and hours of study earned in each subject;

(iii) The applicant, at his or her own expense, shall submit an accurate English translation that interprets all documents submitted in a foreign language. Each translated document shall bear the affidavit of the translator certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original. Each translated document shall also bear the affidavit of the applicant, certifying that the translation is a true and complete translation of the original. Each affidavit shall be signed before a notary public; and

(iv) All foreign trained applicants, at his or her expense, shall submit their transcripts for evaluation by a foreign credential evaluation service to determine if the applicant's course work is equivalent to that required of an applicant from a three-year postgraduate acupuncture college accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM). This includes a subject-by-subject analysis that meets the curricular requirements of ACAOM in effect at the time of certification by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) in the acupuncture written and point location examinations. The applicant may use a current member of the National Association of Credential Evaluation Services (NACES) or the American Association of Collegiate Registrars and Admissions Offices (AACRAO);

(7) Practice Requirements:

(a) The applicant shall fulfill the requirements set forth in G.S. 90-455.

(b) Disciplinary action, as used in Article 30 of Chapter 90 of the General Statutes, means censure, suspension, or revocation but does not include a letter of caution, warning or admonition; and

(8) Submit a license history stating the disciplinary record of the applicant to reflect any censure, suspension or revocation. The record shall be sent directly to the Board by each state board in which the applicant has been licensed to practice acupuncture.

History Note: Authority G.S. 90-451; 90-454; 90 455;

Temporary Adoption Eff. March 18, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. August 1, 1996;

Amended Eff. August 1, 2007; July 1, 2000; April 1, 1999; August 1, 1995.

21 NCAC 01 .0102

REQUIREMENTS/WAIVER/QUALIFICATIONS/LICENSURE DETAILED IN G.S. 90-455

An applicant for licensing seeking a waiver of the requirements of Rule .0101 of this Section shall:

- (1) Submit a completed application before December 31, 1994, and
- (2) Submit non-refundable fees as required by Rule .0103 of this Section, and
- (3) Provide proof of North Carolina residency as of January 1, 1993, and
- (4) Fulfill one of the following:
 - (a) Submit a certified copy, certified by the issuing institution, of a transcript including evidence of graduation from an acupuncture college approved by the Board (an approved acupuncture college is one that is a minimum of two academic years of training and is certified or approved by the state or country in which it operates), or
 - (b) Submit evidence of successful completion of the Clean Needle Technique (CNT) course and

achieve a score of not less than 15 points as outlined in the Sub-items (4)(b)(i) and (ii) of this Rule to satisfy requirements for a Board approved training program.

- (i) Submit proof of a score of not less than 70% on the National Commission for the Certification of Acupuncturists examination: 15 points; or
- (ii) Training: Accrue 15 points (a minimum of 5 points in both categories in Sub-items (4)(b)(ii)(A) and (B) of this Rule.

(A) Education:

(I) Structured - For each 100 hours of documented completion of a formal training program approved by the Board: 1 point. A formal training program is an acupuncture college certified or approved by the state or country in which it operates.

(II) Apprenticeship - For each 150 hours of supervised apprenticeship training with an acupuncturist [and which is verified by such acupuncturist(s)]: 1 point.

(B) Experience: An applicant must accrue a minimum of five points in any combination of Sub-items (4)(ii)(B)(I) and (II) of this Rule. Acupuncture must comprise at least 90% of the applicant's practice. Treatments for cessation of smoking and weight loss shall not be adequate to satisfy the experience requirements if such therapies comprise more than 40% of the applicant's practice.

(I) Treatment of not fewer than 100 different patients for not less than 2000 patient hours within the last three years prior to application for licensure: 5 points.

(II) Treatment of not fewer than 100 patients for not less than 4000 patient hours within the last three years prior to application for licensure: 10 points.

- (5) Submit all correspondence, including application, in writing, typed or printed only, to the North

Carolina Acupuncture Licensing Board, P.O. Box 25171, Asheville, NC 28803.

History Note: Filed as a Temporary Adoption Eff. March 18, 1994 for a Period of 180 Days or Until the Permanent

Rule Becomes Effective, Whichever is Sooner;

Authority 90-454; 90-455; S.L.1993, c. 303, s. 3; Eff. August 1, 1994.

21 NCAC 01 .0103 FEES

The following fees shall apply:

- (1) Application (non-refundable)
\$100.00
- (2) Initial biennial licensing
\$500.00
- (3) Renewal of biennial licensing
\$300.00
- (4) Late license renewal (additional)
\$200.00
- (5) Inactive license renewal, biennial extension
\$ 50.00
- (6) Duplicate license
\$ 25.00
- (7) Duplicate wall certificate
\$ 50.00
- (8) Mailing Labels
\$150.00
- (9) Returned check
\$ 40.00
- (10) Verification of North Carolina licensure to another state
\$ 25.00
- (11) Name change
\$5.00
- (12) Continuing education per single program approval
\$ 50.00
- (13) Continuing education provider approval
\$ 50.00
- (14) Initial school application
\$1,000.00
- (15) Biennial renewal school approval application
\$500.00

History Note: Authority G.S. 90 457;

Temporary Adoption Eff. March 18, 1994 for a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner;

Eff. August 1, 1994;

Amended Eff. August 1, 2007.

21 NCAC 01 .0104 DEFINITIONS

The following definitions shall apply throughout this Chapter:

- (1) "Acupuncture adjunctive therapies" include but are not limited to auricular, nose, face, hand, foot, and scalp acupuncture therapy; and stimulation to acupuncture points and channels by any of the following: needles, cupping, thermal methods, magnets, gwa-sha scraping techniques.
- (2) "Acupuncture diagnostic techniques" include but are not limited to the use of observation, listening, smelling, inquiring, palpation, pulse diagnosis, tongue diagnosis,

hara diagnosis, physiognomy, five element correspondence, ryodoraku, akabani, and electro-acupuncture.

(3) "Acupuncture needles" mean solid filiform needles and include but are not limited to intradermal, plum blossom, press tacks, and prismatic needles.

(4) "Dietary guidelines" include but are not limited to nutritional counseling and the recommendation of food and supplemental substances.

(5) "Electrical stimulation" includes but is not limited to the treatment or diagnosis of energetic imbalances using TENS, Piezo electrical stimulation, acuscope therapy, auricular therapy devices, and percutaneous and transcutaneous electrical nerve stimulation.

(6) "Herbal medicine" includes but is not limited to tinctures, patent remedies, decoction, powders, diluted herbal remedies, freeze dried herbs, salves, poultices, medicated oils, and liniments.

(7) "Massage and manual techniques" include but are not limited to acupressure, shiatsu, Tui-Na, qi healing, and medical qi gong.

(8) "Therapeutic exercise" includes but is not limited to qi gong, Taoist self-cultivation exercises, dao yin, tai qi chuan, ba gua, and meditative exercises.

(9) "Thermal methods" include but are not limited to moxibustion, hot and cold packs and laser

acupuncture. All acupuncture devices shall be administered in accordance with Federal Drug Administration guidelines.

History Note: Authority G.S. 90-454;

Eff. July 1, 1995.

21 NCAC 01 .0105 QUALIFICATIONS FOR LICENSURE THROUGH LICENSE RECIPROCIDY

An applicant for licensure to practice acupuncture in North Carolina shall:

(1) Submit a completed application;

(2) Submit fees as required by Rule .0103 of this Section;

(3) Have submitted directly to the North Carolina Acupuncture Licensing Board, an official letter from the licensing board of another jurisdiction with whom the North Carolina Acupuncture Licensing Board has a reciprocal licensing agreement, verifying that the applicant is currently licensed and in good standing in such jurisdiction.

History Note: Authority G.S. 90-454; 90-455;

Eff. April 1, 1999.

21 NCAC 01 .0106 CHANGE OF NAME OR ADDRESS

Every person licensed under the provisions of this Article shall give written notice to the Board of any change in his or her name or address within 60 calendar days after the change takes place.

History Note: Authority G.S. 90-454; 90-455; 90-456;

Eff. August 1, 2007.

21 NCAC 01 .0107 BOARD MAILING ADDRESS

All correspondence shall be mailed to the following address:
North Carolina Acupuncture Licensing Board
P.O. Box 10686
Raleigh, N.C. 27605

History Note: Authority G.S. 90-450;
Eff. August 1, 2007.

SECTION .0200 - RENEWAL OF LICENSURE

21 NCAC 01 .0201 RENEWAL OF LICENSURE

The procedure and requirements for renewal of license are as follows:

- (1) Biennial Renewal. A licensee must renew his or her license by the second July 1 following initial licensure and thereafter renew his or her license prior to expiration every two years.
- (2) Continuing Education. An applicant for license renewal shall verify on a form prepared by the Board that the licensee has completed the required continuing education units, the number of units completed, and a list of those programs completed. The licensee must retain such receipts, vouchers or certificates as may be necessary to document completion of the continuing education units required. An applicant must retain records to establish that the applicant has fulfilled the educational requirements set by the Board.
- (3) Fees. The licensee must pay the renewal fee prescribed in Rule .0103 of this Chapter.
- (4) Suspended license. The holder of a suspended license must meet the prescribed renewal requirements or the license shall expire.
- (5) Expired license. He or she must not practice acupuncture with an expired license. Failure to receive notification that the license has expired during this period does not relieve the holder of an expired license of the responsibility of meeting the continuing education requirements that would have been required if the license had continued to be in effect. These continuing education units will not apply to the renewal requirements for the subsequent renewal period. To renew an expired license the applicant must file the approved application, submit proof of completion of continuing education, and pay the renewal late fee resulting from the expired license as well as the required renewal fee.

History Note: Authority G.S. 90-455;
Eff. December 1, 1995;
Amended Eff. August 1, 2007.

21 NCAC 01 .0202 PROCESS TO OBTAIN INACTIVE LICENSE; ACTIVATE LICENSE

- (a) The procedure and requirements for inactive status are as follows:
- (1) Written request for inactive license. A licensed acupuncturist not engaged in the practice of acupuncture may request that his or her license be placed in inactive status by submitting the request in writing to the Board.
 - (2) Following a period of eight years, the Board shall treat an inactive license as lapsed.
- (b) The procedure and requirements to activate a license are as follows:
- (1) Submit an application to activate a license on a form provided by the Board.
 - (2) The applicant meeting the requirements to activate his or her license as set out in G.S. 90-455(c) shall submit a signed statement to the Board establishing that he or she has not been involved in any prohibited activities set forth in G.S. 90-456 during the period of inactive status.
 - (3) To make this determination, the Board may hold a hearing in accordance with the requirements followed for revocation and suspension of a license as set out in 21 NCAC 01 .0710.
 - (4) The applicant shall satisfy the Board that he or she completed 40 hours of continuing education units within the preceding two-year period as set out in G.S. 90-455.
- (c) Fees: An applicant shall submit payment of an inactive license fee extension every two years upon notice by the Board.
- (d) The Board shall activate a license upon a finding that the applicant has paid the sum total fee, completed the continuing education requirements, and not engaged in any prohibited activities that would constitute the basis for discipline as set forth in G.S. 90-456.

History Note: Authority G.S. 90-450; 90-455; 90-456;
Eff. August 1, 2007.

SECTION .0300 – CONTINUING EDUCATION SECTION .0300 – CONTINUING EDUCATION

21 NCAC 01 .0301 STANDARDS FOR CONTINUING EDUCATION

- (a) Applicants for license renewal shall complete 40 Continuing Education Units (CEU) every two years. One CEU is defined as one contact hour or 50 minutes.
- (b) All CEUs shall be completed during the two calendar years immediately preceding the:
- (1) License renewal date, or
 - (2) Date on which the license renewal is approved by the Board.
- (c) The following requirements shall apply to the total number of CEUs submitted by a licensee for license renewal:
- (1) A minimum of 25 CEUs must be obtained from formally organized courses which have content relating to the scope of practice of acupuncture as defined by G.S. 90-451(3). Each course shall be sponsored or approved by one or more of the following organizations or their successor organizations:
 - (A) National Acupuncture and Oriental Medicine Alliance (NAOMA);

- (B) Association of Acupuncture and Oriental Medicine (AAOM);
 - (C) Council of Colleges of Acupuncture and Oriental Medicine (CCAOM);
 - (D) Acupuncture Schools Accredited By or in Candidacy Status with the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM);
 - (E) National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM);
 - (F) National Academy of Acupuncture and Oriental Medicine (NAAOM);
 - (G) Society for Acupuncture Research;
 - (H) National Acupuncture Detoxification Association;
 - (I) American Academy of Medical Acupuncture (AAMA);
 - (J) The acupuncture licensing board of another State;
 - (K) North Carolina Association of Acupuncture and Oriental Medicine (NCAAOM);
 - (L) American Heart Association; or
 - (M) American Red Cross.
- (2) A maximum of 15 CEUs may be obtained from teaching acupuncture diagnosis and treatment. All CEUs for teaching shall be approved by the Board prior to the date of the class and awarded for actual classroom hours taught pursuant to this Rule. For approval the licensee shall submit the following information:
- (A) Title of the course;
 - (B) Summary of course content or class syllabus;
 - (C) Location of the class;
 - (D) Dates of the class;
 - (E) Number of classroom hours taught; and
 - (F) Copy of course evaluation to be provided students.
- (d) A course submitted to the Board for credit as CEUs shall be formally organized. A formally organized course shall consist of the following:
- (1) A record of attendance maintained on file by the sponsor of the course. This record shall be made available to the Board upon request;
 - (2) For a course taught by an instructor who is required by the State to hold a credential to practice in the field which is the subject of the course, the credential of that instructor shall be in good standing and any instructor shall be competent to teach his or her designated course by virtue of his or her education, training, and experience;
 - (3) The course shall have stated course objectives and a course syllabus or a description of the content of the course with a class outline;
 - (4) The course shall be evaluated by each participant; and
 - (5) Upon completion of each course the provider shall issue a certificate of completion to each participant to include:
 - (A) Title of the course;
 - (B) Name of participant;
 - (C) Name of all instructors;
 - (D) Name of provider;
 - (E) Date and location of the course; and
 - (F) Number of CEU's completed.
- (e) CEUs from any given course may be used to satisfy the requirements of only one biennium.
- (f) At the time of license renewal, each licensee shall sign a statement under penalty of perjury indicating the licensee has complied with the continuing education requirements.

(g) Each licensee shall retain for four years records of all continuing education programs attended, indicating:

- (1) title of the course or program;
- (2) sponsoring organization or individual;
- (3) accrediting organization; and
- (4) course hours in attendance.

(h) The Board may audit the records of any licensee. No licensee shall be subject to audit more than once every two years. Those licensees selected for audit shall be required to document their compliance with the continuing education requirements of this article.

(i) Failure to comply with the continuing education requirements shall prohibit license renewal and result in the license reverting to an expired status at the end of the renewal period.

(j) It shall constitute unprofessional conduct for a licensee to misrepresent completion of required CEUs. In the event of misrepresentation, disciplinary proceedings may be initiated by the Board.

(k) A maximum of 20 CEUs may be obtained for correspondence or on-line courses.

(l) All applications for pre-approval must be submitted 60 days prior to the date of the course.

(m) A licensee may apply to the Board for an extension of time as set out in G.S. 90-457.1.

History Note: Authority G.S. 90-454; 90-457.1;

Eff. July 1, 1995;

Temporary Amendment Eff. January 26, 1996;

Temporary Amendment Expired November 11, 1996;

Amended Eff. August 1, 2007; August 1, 2002.

Amended Eff. August 1, 2002.

SECTION .0400 - PRACTICE PARAMETERS AND PROCEDURES

21 NCAC 01 .0401 PRACTICE PARAMETERS

The following are the practice parameters for acupuncturists in North Carolina:

(1) A licensed acupuncturist shall practice within the scope of training offered by a college accredited, or in candidacy status, by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

(2) A licensed acupuncturist must practice within the confines of his training. Parameters for diagnosis and treatment of patients include, Five Elements, Eight Principles, Yin Yang Theory,

Channel Theory, Zang Fu Organ Theory, Six Stages and Four Aspects of Disease Progressions.

History Note: Authority G.S. 90-454;

Eff. August 1, 1995.

21 NCAC 01 .0402 ACUPUNCTURE PROCEDURES

The following procedures shall be followed within the practice of acupuncture:

(1) Practice Setting:

- (a) Treatments shall be given in surroundings that provide privacy and confidentiality.
- (b) Every acupuncture office shall be maintained in a clean and sanitary condition at all times, and shall have a readily accessible bathroom facility.
- (c) OSHA Standards for Blood Borne Pathogens shall be met.

(2) New Patient Intake:

- (a) Prior to treatment, a written or oral medical history shall be obtained from the patient. Oral statements shall be reflected in the practitioner=s notes. Information shall include current and past illnesses, treatments, hospitalizations, current medications and allergies to medications. A social history shall include use of tobacco, alcohol, caffeine and recreational drugs.
- (b) The names of current health practitioners shall be listed.
- (c) The current complaints shall be outlined along with remedies and treatments tried and in progress.

(d) The possibility of pregnancy or the presence of biomedical devices, such as artificial joints or cardiac pacemaker shall be ascertained.

(3) Fees. Information concerning fees shall be made available prior to treatment.

(4) Guarantees. No guarantee or implied guarantee about the success of treatment shall be given.

Reasonable indication of the length of treatment and usual outcome shall be given.

(5) Diagnosis:

(a) Diagnosis shall be made utilizing methods connected with the traditions represented in Oriental medicine as listed in Rule .0104 of this Chapter. Examples of diagnostic measures include the Eight Principles, Five Elements, Pulse diagnosis, and Tongue diagnosis.

(b) The diagnostic procedures shall be recorded at each visit.

(6) Treatment. The specifics of the treatment shall be recorded at each visit.

(7) Medical Records. Dated notes of each patient visit and communication shall be kept.

These

records may only be made available to other parties with the patients=s written authorization.

(8) Failure to Progress:

(a) If a patient fails to respond to treatments, discussion about other forms of treatment or referral to another health care professional shall be made.

(b) In the case of persistent, unexplained pain, or the unexplained worsening of any condition in the face of ongoing treatment, referral or consultation shall be made. In choosing a referral source, priority shall be given to previously seen practitioners.

(c) Requests by the patient for information about other forms of treatment or referral shall always be honored.

History Note: Authority G.S. 90-454;

Eff. August 1, 1995.

SECTION .0500 - SCHOOLS AND COLLEGES OF ACUPUNCTURE
21 NCAC 01 .0501 QUALIFICATIONS FOR ESTABLISHING A SCHOOL FOR
ACUPUNCTURE
IN NORTH CAROLINA

(a) For the purposes of this Rule "Acupuncture program" means training in acupuncture offered by an academic institution on a continuing basis.

(b) In addition to and for the purposes of meeting the requirements of G.S. 90-454(3), in order to be approved as a school of acupuncture an institution must meet the following standards:

(1) submit a completed application;

(2) submit fees as required by Rule .0103 of this Chapter;

(3) offer an Acupuncture program that extends over a minimum of three academic years, six semesters, nine quarters or 27 months, which consists of a minimum of 1800 clock hours with a minimum of 900 hours of didactic and theoretical training and 650 hours of supervised clinic. A minimum of 400 hours of the 650 hours of clinical training must be actual treatments;

(4) achieve candidacy status with the National Accreditation Commission for Schools and Colleges of

Acupuncture and Oriental Medicine within one year of beginning classes and maintain accreditation throughout years of operation;

(5) provide a transcript of grades, as part of the student=s record, that includes the following: name, address, date of birth, course titles, grades received, number of clock hours per course;

(6) grant a diploma only after the student has successfully completed the educational program in acupuncture, personally attended all required classes and completed the program requirements.

History Note: Authority G.S. 90-454;

Eff. December 1, 1995.

SECTION .0600 -RESERVED FOR FUTURE CODIFICATION

SECTION .0700 - ADMINISTRATIVE PROCEDURES

21 NCAC 01 .0701 ADMINISTRATIVE REVIEW OF BOARD'S DECISION
DENYING ISSUANCE
OF A LICENSE

Whenever the North Carolina Acupuncture Licensing Board has determined that a person has failed to satisfy the Board of his qualifications and has failed to be issued a license, the Board shall immediately notify such person of its decision, and indicate in what respect the applicant has so failed to satisfy the Board. Such applicant shall be given a contested case hearing before the Board upon request of such applicant filed with or mailed by registered mail to the secretary of the Board at 1418 Aversboro Rd., Garner, NC 27529 within 60 days after receipt of the Board=s decision, stating the reasons for such request. The Board shall within 20 days of receipt of such request notify such applicant of the time and place of a public hearing, which shall be held within 60 days. The burden of satisfying the Board of his qualifications for licensure shall be upon the applicant. Following such hearing, the Board shall determine whether the applicant is entitled to be licensed.

History Note: Authority G.S. 90-454;

Eff. December 1, 1995.

21 NCAC 01 .0702 FILING COMPLAINTS

(a) General. Any person who has reason to believe that a licensed acupuncturist has violated the laws governing acupuncture may file a complaint with the North Carolina Acupuncture Licensing Board. Complaints shall be filed with the secretary of the North Carolina Acupuncture Licensing Board at 1418 Aversboro Road, Garner, North Carolina 27529.

(b) Form of Complaint. Complaints may be formal or informal, but must be in writing:

(1) Informal Complaint. The Board shall consider any written communication, construed most favorably to the complainant, which appears to allege a violation of the laws governing acupuncture an informal complaint.

(2) Formal Complaint. A complainant shall execute a formal complaint in writing under oath upon a form provided by the secretary. The complaint shall specify the statute or rule allegedly violated and shall contain a short statement of the acts or omissions constituting the alleged violation including the dates of said acts or omissions.

(c) Secretary's Response to Complaints. The secretary shall review any complaint to determine whether a major or minor violation has been alleged. If the secretary determines that the alleged violation is minor, he shall attempt to resolve the complaint by informal communication with the complainant and the acupuncturist complained of. If the secretary determines that the alleged violation is major, he shall assist the complainant in filing a formal complaint, if one has not already been filed.

History Note: Authority G.S. 90-454;

Eff. February 1, 1997.

21 NCAC 01 .0703 DETERMINATION OF PROBABLE CAUSE

(a) General. Formal complaints shall be investigated by the North Carolina Acupuncture Licensing Board. The Board shall hold a hearing to determine whether there is probable cause to believe a violation of the laws governing acupuncture has occurred.

(b) Notice of Hearing. The secretary shall provide notice of the probable cause hearing to the acupuncturist complained against by certified mail at least 15 days in advance of the hearing.

(c) Conduct of Probable Cause Hearing. The probable cause hearing shall be informal, and the secretary may establish at his discretion such procedures as are necessary to facilitate examination of the evidence. The Board may consider evidence at the probable cause hearing which would not be admissible if offered at the hearing in a contested case.

(d) Action by the Board. After examining the evidence presented at the probable cause hearing, the Board may dispose of each charge in the formal complaint as follows:

(1) If no probable cause exists to believe that a violation of G.S. 90-456 has occurred, the charge may be dismissed.

(2) If the respondent admits the charge, he may be directed to cease and desist from commission of those acts which violate the provisions of G.S. 90-456.

(3) If a charge is denied and probable cause is found, or if a charge, while admitted, is of such gravity as to make the imposition of punitive sanctions appropriate, the complaint shall be presented to the Board for its decision on the merits in accordance with G.S.

150B, Article 3A.

History Note: Authority G.S. 90-456;

Eff. February 1, 1997.

21 NCAC 01 .0704 INFORMAL PROCEEDINGS

(a) In addition to formal hearings pursuant to G.S. 90-456, the Board may conduct informal proceedings in order to settle on an informal basis matters of dispute. A person practicing acupuncture pursuant to a license or other authority granted by the Board may be invited to attend a meeting with the Board or a committee of the Board on an informal basis to discuss any matter the Board deems appropriate. No public record of such proceeding shall be made nor shall any individual be placed under oath to give testimony. Matters discussed by a person appearing informally before the Board may, however, be used against such person in a formal hearing if a formal hearing is subsequently initiated.

(b) As a result of such informal meeting, the Board may recommend that certain actions be taken by such person, may offer such person the opportunity to enter into a consent order which will be a matter of public record, may institute a contested case concerning such person, or may take other action as the Board may deem appropriate in each case.

(c) Attendance at such an informal meeting is not required and is at the sole discretion of the person so invited. A person invited to attend an informal meeting may have counsel present at such meeting.

*History Note: Authority G.S. 150B-38(h);
Eff. February 1, 1997.*

21 NCAC 01 .0705 INITIATION OF FORMAL HEARINGS

(a) The North Carolina Acupuncture Licensing Board may initiate a disciplinary action against a licensed acupuncturist or applicant pursuant to G.S. 90-456.

(b) Upon receipt of a written request and substantiating information from any person in a position to present information as a basis for the action, the North Carolina Acupuncture Licensing Board shall conduct an investigation sufficient to determine whether reasonable cause exists to initiate disciplinary action(s).

(c) An opportunity will be given the person for a hearing before the Board at the next meeting.

*History Note: Authority G.S. 90-456; 150B-38(h);
Eff. August 1, 1996.*

21 NCAC 01 .0706 CONTINUANCES

Any person summoned to appear before the Board at a contested case hearing may seek to obtain a continuance of that hearing by filing with the Executive Secretary of the Board, as soon as the reason for continuance is known, a motion for continuance setting forth with specificity the reason the continuance is desired. Continuances shall be granted for reasons such as personal or family illness, death, or an act of God. Motions for continuances shall be ruled upon by the President and Executive Secretary of the Board or in the absence of the President, by the Secretary and Executive Secretary.

*History Note: Authority G.S. 90-456; 150B-38(h);
Eff. March 1, 1997.*

21 NCAC 01 .0707 DISQUALIFICATION FOR PERSONAL BIAS

Any person summoned to appear before the Board at a contested case hearing may challenge on the basis of personal bias or other reason for disqualification the fitness and competency of any member of the Board to hear and weigh evidence concerning that person. Challenges shall be stated by way of motion accompanied by affidavit setting forth with specificity the grounds for such challenge and shall be filed with the Executive Secretary of the Board within 14 days of receipt of letter. Nothing contained in this Rule shall prevent a person appearing before the Board at a contested case hearing from making personal inquiry of members of the Board as to their knowledge of and personal bias concerning that person's case.

History Note: Authority G.S. 90-456; 150B-38(h);

Eff. March 1, 1997.

21 NCAC 01 .0708 RESERVED FOR FUTURE CODIFICATION

21 NCAC 01 .0709 PROCEDURE OF REVOCATION OF LICENSURE

(a) If the North Carolina Acupuncture Licensing Board determines that reasonable cause exists to initiate a disciplinary action pursuant to G.S. 90-456, the Board shall prepare written charges and determine what action(s) shall be taken.

(b) The Board shall provide the person with a copy of the written charges and notify the person that it shall take the determined action(s) unless the person, within 60 days of receipt of notice, initiates administrative proceedings under G.S. 150B, Article 3A. The notice will be sent certified mail, return receipt requested.

(c) If the person initiates administrative proceedings the North Carolina Acupuncture Licensing Board shall defer final action on the matter until the proceedings are completed. If the person does not initiate administrative proceedings within 60 days of receipt of notice, the North Carolina Acupuncture Licensing Board may implement the action(s) at its next meeting.

(d) The North Carolina Acupuncture Licensing Board may reinstate a suspended or revoked license or may grant a new license upon application and demonstration of satisfactory compliance with Board requirements.

History Note: Authority G.S. 90-456; 150B-38(h);

Eff. August 1, 1996.

21 NCAC 01 .0710 HEARING BEFORE REVOCATION OR SUSPENSION OF A LICENSE

Before the Board shall revoke, restrict or suspend any license granted by it, the licensee shall be given a written notice indicating the general nature of the charges, accusation, or complaint made against him. This notice may be prepared by a committee of one or more members of the Board designated by the Board, and stating that such licensee will be given an opportunity to be heard concerning such charges or complaint at a time and place stated in such notice, or at a time and place to be thereafter designated by the Board. The Board shall hold a hearing not less than 30 days from the date of the service of such notice upon such licensee, at which such licensee may appear personally and through counsel, may cross examine witnesses and present evidence in his own behalf.

History Note: Authority G.S. 90-454(1); Eff. February 1, 1997.

21 NCAC 01 .0711 PROVISIONS FOR PETITION FOR A RULE CHANGE

Each person desiring to petition for the adoption, amendment or repeal of a rule shall submit the following information to the Board:

- (1) draft of the proposed rule or amendment to a rule;
- (2) reasons for the proposal;
- (3) effect of the existing rule;
- (4) data supporting the proposal;
- (5) effect on existing practices in the area involved, including costs;
- (6) names of those most likely to be affected, with addresses if known; and
- (7) the name and address of the petitioner. The North Carolina Acupuncture Licensing Board shall render a decision regarding the denial of a petition or the initiation of rule-making proceedings.

History Note: Authority G.S. 90-454(8); 150B-20;

Eff. February 1, 1997.