



NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
 Notice without a scheduled hearing
 Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 5.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: North Carolina Acupuncture Licensing Board
2. Link to agency website pursuant to G.S. 150B-19.1(c): http://www.ncalb.com/
3. Proposed Action -- Check the appropriate box(es) and list <u>rule citation(s)</u> beside proposed action: <input type="checkbox"/> ADOPTION: <input checked="" type="checkbox"/> READOPTION <u>with</u> substantive changes: 21 NCAC 01.0104; 21 NCAC 01.0201; 21 NCAC 01.0301; 21 NCAC 01.0402 <input type="checkbox"/> READOPTION <u>without</u> substantive changes: <input type="checkbox"/> AMENDMENT: <input type="checkbox"/> REPEAL:
4. Proposed effective date: October 1, 2017
5. Is a public hearing planned? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes: Public Hearing date: July 11, 2017 Public Hearing time: 9:00 a.m. Public Hearing Location: 1101 Haynes Street Suite 100 Raleigh, NC 27604
6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s):

Readoption of existing rules pursuant to G.S. 150B-21.3A(d)(2), with changes to ensure continuing education requirements reflect an in depth knowledge of the fundamentals of acupuncture practice and are updated to include additional methods by which practitioners can learn about and contribute to the practice of acupuncture, as well as to reflect current standards of patient care, patient privacy and patient records.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Pat Pritchard

Address:

P.O. Box 10686
Raleigh, NC 27605

Phone (optional):

Fax (optional):

E-Mail (optional):

10. Comment Period Ends: August 14, 2017

11. Fiscal impact (check all that apply).

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

- State funds affected
- Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact (≥\$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4
- No fiscal note required by G.S. 150B-21.3A(d)(2)

12. Rule-making Coordinator:

Michael J. Tadych

Address:

Stevens Martin Vaughn & Tadych, PLLC
1101 Haynes Street, Suite 100
Raleigh, NC 27604

Phone: 919.582.2300

E-Mail: mike@smvt.com

Agency contact, if any:

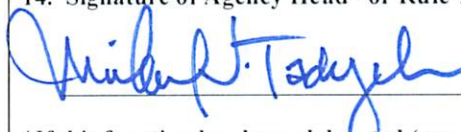
Phone:

E-mail:

13. The Agency formally proposed the text of this rule(s) on

Date: May 24, 2017

14. Signature of Agency Head* or Rule-making Coordinator:



*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Michael J. Tadych

Title: Rule-making Coordinator, North Carolina Acupuncture Licensing Board

1 21 NCAC 01.0104 is proposed for readoption with substantive changes as follows:

2 **21 NCAC 01 .0104 DEFINITIONS**

3 The following definitions shall apply throughout this Chapter:

4 (1) The title of "Licensed Acupuncturist" or "Acupuncturist" is the title conveyed by North Carolina
5 Acupuncture Licensing Board pursuant to Article 30 of Chapter 90 of the North Carolina General
6 Statutes. A Licensed Acupuncturist or Acupuncturist cannot use a licensure title from another
7 state to refer to him or herself as a doctor. Licensed Acupuncturists or Acupuncturists may only
8 refer to him or herself as a doctor in the state of North Carolina, if he or she has earned an
9 educational degree of "doctor" or "doctorate."

10 ~~(2)~~ (2) "Acupuncture adjunctive therapies" include ~~but are not limited to auricular, nose, face, hand, foot,~~
11 ~~and scalp acupuncture therapy; and the adjunctive therapies listed in G.S. 90-451(3). It also~~
12 ~~includes~~ stimulation to acupuncture points and channels by any of the following: ~~needles,~~ cupping,
13 thermal methods, magnets, and gwa-sha scraping techniques.

14 ~~(3)~~ (3) "Acupuncture diagnostic techniques" include ~~but are not limited to~~ the use of observation,
15 listening, smelling, inquiring, palpation, pulse diagnosis, tongue diagnosis, hara diagnosis,
16 physiognomy, five element correspondence, ryodoraku, akabani, and electro-acupuncture.

17 ~~(4)~~ (4) "Acupuncture needles" mean solid filiform needles and include ~~but are not limited to~~ intradermal,
18 plum blossom, press tacks, and prismatic needles.

19 ~~(5)~~ (5) "Dietary guidelines" include ~~but are not limited to~~ nutritional counseling and the recommendation
20 of food and supplemental substances.

21 ~~(6)~~ (6) "Electrical stimulation" includes ~~but is not limited to~~ the treatment or diagnosis of energetic
22 imbalances using TENS, Piezo electrical stimulation, acuscope therapy, auricular therapy devices,
23 ~~and~~ percutaneous and transcutaneous electrical nerve stimulation and Class IIIa, 5 milliwatt laser
24 devices. All laser devices shall be administered in accordance with FDA guidelines, including 21
25 CFR §§1040.10 and 1040.11.

26 ~~(7)~~ (7) "Herbal medicine" includes ~~but is not limited to~~ tinctures, patent remedies, decoction, powders,
27 diluted herbal remedies, freeze dried herbs, salves, poultices, medicated oils, and liniments.

28 ~~(8)~~ (8) "Massage and manual techniques" include ~~but are not limited to~~ acupressure, shiatsu, Tui-Na, qi
29 healing, and medical qi gong.

30 ~~(9)~~ (9) "Therapeutic exercise" includes ~~but is not limited to~~ qi gong, Taoist self-cultivation exercises, dao
31 yin, tai qi chuan, ba gua, and meditative exercises.

32 ~~(10)~~ (10) "Thermal methods" include ~~but are not limited to moxibustion, moxibustion and hot and cold~~
33 ~~packs, and laser acupuncture.~~ All acupuncture devices shall be administered in accordance with
34 Federal Drug Administration guidelines.

35 *History Note: Authority G.S. 90-451(3); G.S. 90-454; Eff. July 1, 1995.*

1 21 NCAC 01.0201 is proposed for readoption with substantive changes as follows:

2 **21 NCAC 01 .0201 RENEWAL OF LICENSURE**

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

- 4 (1) Biennial Renewal. A licensee ~~must~~ shall renew his or her license by the second July 1 following
5 initial licensure and thereafter renew his or her license ~~prior to expiration every two years~~ by July
6 1 every two years thereafter.
- 7 (2) Continuing Education. An applicant for license renewal shall verify on a renewal form prepared
8 by the Board pursuant to G.S. 90-455 (b)(1) that the licensee has completed the required
9 continuing education units, the number of units completed, and a list of those programs completed.
10 ~~The licensee must retain such receipts, vouchers or certificates as may be necessary to document~~
11 ~~completion of the continuing education units required. An applicant~~ A licensee must shall retain
12 records to establish that the ~~applicant~~ licensee has fulfilled the educational requirements set by the
13 ~~Board.~~ Board, pursuant to Rule .0301(m) of this Chapter.
- 14 (3) Fees. The licensee ~~must~~ shall pay the renewal fee prescribed in Rule .0103 of this Chapter.
- 15 (4) Suspended license. The holder of a suspended license ~~must~~ shall meet the ~~prescribed~~ renewal
16 requirements pursuant to G.S. 90-455(b) and this Rule for the duration of the suspension or the
17 license shall ~~expire.~~ expire pursuant to G.S. 90-457.1 (e).
- 18 (5) Expired license. ~~He or she must not practice acupuncture with an expired license. The practice of~~
19 acupuncture with an expired license is unlawful and prohibited. Failure to receive notification that
20 ~~the~~ a license has expired ~~during this period~~ does not relieve the holder of an expired license of the
21 responsibility of meeting the continuing education requirements that would have been required if
22 the license had continued to be in effect. These continuing education units will not apply to the
23 renewal requirements for the subsequent renewal period. ~~To~~ In order to renew an expired license
24 pursuant to G.S. 90-455(e), the applicant must shall file the ~~approved application,~~ renewal form
25 prepared by the Board, submit proof of completion of continuing education, and pay the ~~renewal~~
26 late license renewal (additional) fee resulting from the expired license as well as the ~~required~~
27 renewal of biennial licensing fee. Expired licenses not renewed within two years after the license
28 expired or not reactivated within eight years after the license is placed on inactive status, pursuant
29 to G.S. 90-455(c), are deemed lapsed, pursuant to G.S. 90-455(f).

30 *History Note:* Authority G.S. 90-455; Eff. December 1, 1995; Amended Eff. August 1, 2007- 2007; G.S 90-454:
31 Eff. July 1, 1995; G.S. 90-457.1; Eff. September 8, 2005.

32

1 21 NCAC 01 .0301 is proposed for readoption with substantive changes as follows:

2 **21 NCAC 01 .0301 STANDARDS FOR CONTINUING EDUCATION**

3 (a) Applicants for license renewal shall complete 40 Continuing Education Units (CEU) every two years. One CEU
4 is defined as one contact hour or 50 minutes.

5 (b) All CEUs shall be completed during the two calendar years ~~immediately~~ preceding the:

- 6 (1) License renewal ~~date~~, deadline; or
- 7 (2) Date on which the license renewal is approved by the Board.

8 (c) The following requirements shall apply to the total number of CEUs submitted by a licensee for license renewal:

9 (1) A minimum of 25 CEUs ~~must~~ shall be obtained from formally organized courses ~~which that~~ that have
10 content relating to the scope of practice of acupuncture as defined by G.S. 90-451(3). ~~Each course~~
11 ~~shall be sponsored or approved by one or more of the following organizations or their successor~~
12 ~~organizations:~~

13 (A) ~~— National Acupuncture and Oriental Medicine Alliance (NAOMA);~~

14 (B) ~~— Association of Acupuncture and Oriental Medicine (AAOM);~~

15 (C) ~~— Council of Colleges of Acupuncture and Oriental Medicine (CCAOM);~~

16 (D) ~~— Acupuncture Schools Accredited By or in Candidacy Status with the Accreditation~~
17 ~~Commission for Acupuncture and Oriental Medicine (ACAOM);~~

18 (E) ~~— National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM);~~

19 (F) ~~— National Academy of Acupuncture and Oriental Medicine (NAAOM);~~

20 (G) ~~— Society for Acupuncture Research;~~

21 (H) ~~— National Acupuncture Detoxification Association;~~

22 (I) ~~— American Academy of Medical Acupuncture (AAMA);~~

23 (J) ~~— The acupuncture licensing board of another State;~~

24 (K) ~~— North Carolina Association of Acupuncture and Oriental Medicine (NCAAOM);~~

25 (L) ~~— American Heart Association; or~~

26 (M) ~~— American Red Cross.~~

27 (A) Fifteen of these 25 hours shall contain course content relating to the practice of
28 acupuncture as defined by G.S. 90-451(1), not including adjunctive therapies as defined
29 in the second sentence of G.S. 90-451(3) and 21 NCAC 01. 0104(2).

30 (B) The remaining 10 hours of instruction in formally organized courses may be obtained
31 from course content including adjunctive therapies.

32 (2) ~~— A maximum of 15 CEUs may be obtained from teaching acupuncture diagnosis and treatment. All~~
33 ~~CEUs for teaching shall be approved by the Board prior to the date of the class and awarded for~~
34 ~~actual classroom hours taught pursuant to this Rule. For approval the licensee shall submit the~~
35 ~~following information:~~

36 (A) ~~— Title of the course;~~

37 (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.~~

(2) The remaining 15 CEUs may be comprised of any combination of the following:

- (A) two (2) CEUs are required every license renewal period to maintain CPR certification;
- (B) up to 15 CEUs of formally organized courses that relate to either acupuncture or the adjunctive therapies;
- (C) up to 10 CEUs for acupuncture or Chinese medicine research;
- (D) up to 10 CEUs for teaching of Chinese medicine in a formally organized course as defined in .0301(d) below; or
- (E) up to 10 CEUs for published work in peer-reviewed journals.

(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. The sponsor shall maintain a record of attendance for four years.~~ This record shall be made available to the Board upon request; request, based upon the power granted to the Board pursuant to G.S. 90-454(2);
- ~~(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;~~
- (2) The instructor shall hold credentials to practice in the field that is the subject of the course or the instructor shall be competent to teach the designated course by virtue of his or her education, training, and experience, as determined by the Board pursuant to G.S. 90-457.1(b);
- (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;~~ participant on an evaluation form provided by the instructor; and
- (5) Upon completion of each ~~course~~ course, the provider shall issue a certificate of completion to each participant to include:
 - (A) ~~Title~~ The title of the course;
 - (B) ~~Name~~ The name of the participant;
 - (C) ~~Name~~ The name of all instructors;
 - (D) ~~Name~~ The name of the provider;
 - (E) ~~Date~~ The date and location of the course; and
 - (F) ~~Number~~ The number of ~~CEU's~~ CEUs completed.

1 (e) Licensees shall maintain CPR certification, by taking a CPR certification course every renewal period. Two (2)
2 CEUs are granted for maintaining CPR certification.

3 (f) A maximum of 10 CEUs may be obtained in each renewal period by licensees who are involved in acupuncture
4 or Chinese medicine research studies in accredited hospitals or educational institutions. A research project may only
5 be submitted once for the purpose of obtaining CEU credit. In order to obtain Research approved CEUs the
6 following must be submitted to the Board for review and approval:

- 7 (1) The institutional Review Board (IRB) approval;
- 8 (2) A summary of the study; and
- 9 (3) The names and credentials of primary researchers involved.

10 (g) A maximum of 10 CEUs may be obtained in each renewal period by teaching up to 30 hours of acupuncture
11 education in an American College of Acupuncture and Oriental Medicine (ACAOM) accredited educational
12 institution. Three hours of teaching are necessary for each CEU awarded.

13 (h) A maximum of 10 CEUs may be obtained in each renewal period by teaching up to 30 hours of a CEU course
14 approved by the NCALB. All CEUs for teaching shall be approved in advance by the Board prior to the date of the
15 class and awarded for actual classroom hours taught. Three hours of teaching are necessary for each CEU awarded.
16 For approval the licensee shall submit the following information:

- 17 (1) The title of the course;
- 18 (2) A summary of course content or class syllabus;
- 19 (3) The location of the course;
- 20 (4) The dates of the course;
- 21 (5) The total number of classroom hours taught;
- 22 (6) A copy of course evaluation to be provided students; and
- 23 (7) The course fees and refund policy.

24 (i) A maximum of 10 CEUs may be obtained by authoring an article in a peer-reviewed journal of acupuncture or
25 Chinese medicine. Examples of journals that would be considered by the Board include:

- 26 (1) The Journal of Traditional Chinese Medicine;
- 27 (2) The American Journal of Chinese Medicine; and
- 28 (3) The World Journal of Traditional Chinese Medicine.

29 (j) A maximum of 10 CEUs may be obtained in online courses including any online CPR class. All online courses
30 shall be approved by one of the following organizations or their successor organization:

- 31 (1) Acupuncture schools in candidacy status or accredited by American College of Acupuncture and
32 Oriental Medicine (ACAOM);
- 33 (2) National Certification Commission for Acupuncture and Oriental Medicine;
- 34 (3) The Society for Acupuncture Research;
- 35 (4) National Acupuncture Detoxification Association;
- 36 (5) American Academy of Medical Acupuncture (AAMA); or
- 37 (6) North Carolina Acupuncture Licensing Board.

1 ~~(e)~~ (k) CEUs from any given course may be used to satisfy the requirements of only one ~~biennium~~ renewal period.

2 ~~(f)~~ (l) At the time of license renewal, each licensee shall sign a statement ~~under penalty of perjury indicating the~~
3 ~~licensee has complied~~ swearing compliance with the continuing education ~~requirements~~ requirements pursuant to
4 G.S. 90-457.1(d).

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

- 6 (1) The title of the course or program;
- 7 (2) ~~sponsoring organization or individual;~~ The name of the participant;
- 8 (3) ~~accrediting organization; and~~ The name of all instructors;
- 9 (4) ~~course hours in attendance.~~ The name of the provider;
- 10 (5) The date and location of the course; and
- 11 (6) The number of CEUs completed.

12 ~~(h)~~ (n) ~~The~~ Pursuant to G.S. 90-457.1(b), the Board may audit the records of any ~~licensee.~~ licensee to ensure
13 compliance with the continuing education requirements of this Rule. No licensee shall be subject to audit more than
14 once every two years. ~~Those licensees selected for audit shall be required to document their compliance with the~~
15 ~~continuing education requirements of this article.~~

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

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

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

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

22 ~~(m)~~ (p) A licensee may apply to the Board for an extension of time to complete continuing education requirements
23 as set out in G.S. 90-457.1. All applications for extensions of time must be submitted at least 30 days prior to the
24 renewal deadline.

25 *History Note: Authority G.S. 90-451; G.S. 90-454; G.S. 90-455(b)(3); 90-457.1;*
26 *Eff. July 1, 1995;*
27 *Temporary Amendment Eff. January 26, 1996;*
28 *Temporary Amendment Expired November 11, 1996;*
29 *Amended Eff. August 1, 2007; August 1, 2002.*

1 21 NCAC 01.0402 is proposed for readoption with substantive changes as follows:

2 **21 NCAC 01 .0402 ACUPUNCTURE PROCEDURES**

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

4 (1) Practice Setting:

5 (a) Treatments shall be given in surroundings that provide privacy and confidentiality.
6 Community acupuncture practices that perform acupuncture treatment in a group setting
7 shall obtain and retain a signed consent waiving the right to a private treatment setting
8 from every patient prior to his or her first treatment.

9 (b) Every acupuncture office shall be maintained in a clean and sanitary condition at all
10 times, and shall have a ~~readily~~ an accessible bathroom facility.

11 (c) OSHA Standards for Blood Borne Pathogens shall be met.

12 (d) All acupuncture practice and recordkeeping shall be compliant with all State and federal
13 laws and regulations pertaining to the confidentiality of medical records including
14 security and privacy regulations enacted under HIPAA, 45 C.F.R Part 160 and subparts A
15 and E of Part 164, as amended or replaced .

16 (2) New Patient Intake:

17 (a) Prior to treatment, a written or oral medical history shall be obtained from the patient.
18 Oral statements shall be ~~reflected~~ written in the practitioner's notes. Information shall
19 include current and past illnesses, treatments, hospitalizations, current medications, and
20 allergies to medications. A social history shall include use of tobacco, alcohol, caffeine,
21 and recreational drugs.

22 (b) The names of current health practitioners shall be listed.

23 (c) The ~~current~~ presenting complaints shall be outlined along with remedies and treatments
24 tried and in progress.

25 (d) The licensee shall inquire about the possibility of patient pregnancy or and the presence
26 of biomedical devices, such as artificial joints or cardiac pacemaker shall be ascertained.
27 pacemaker.

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

29 (4) Guarantees. No guarantee express or implied guarantee about the success of treatment shall be
30 given. Reasonable indication of the length of treatment and usual outcome shall be given.

31 (5) Diagnosis:

32 (a) Diagnosis Licensees shall diagnose each patient be made utilizing employing methods
33 connected with used by the traditions represented in Oriental Asian medicine as listed in
34 reflected in Rule .0104(2) of this Chapter. Examples of diagnostic measures include the
35 Eight Principles, Five Elements, Pulse diagnosis, and Tongue diagnosis. Chapter and
36 within the context of American College of Acupuncture and Oriental Medicine
37 (ACAOM) educational programs.

1 (b) ~~The~~ All acupuncture diagnostic techniques utilized procedures shall be recorded at each
2 visit.

3 (6) Treatment. The specifics of ~~the~~ all treatment shall be recorded at each visit. Treatments shall be
4 aligned and consistent with Asian and biomedical knowledge obtained in acupuncture training
5 programs.

6 (7) Medical Records. Dated notes of each patient visit and communication shall be ~~kept.~~ kept seven
7 years. ~~These records may only be made available to other parties with the patient's written~~
8 ~~authorization.~~ Authorization for release of medical records shall be obtained prior to sharing of
9 any patient information. Medical records shall be released to patient upon receipt of the
10 authorization. North Carolina G.S. 90-411 sets forth the amounts healthcare providers can charge
11 for copies of patient medical records. In charging patients for their records, licensees shall follow
12 G.S. 90-411 as written, or as subsequently amended.

13 (8) Failure to Progress:

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

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

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

22 *History Note:* Authority G.S. 90-411; G.S. 90-454.

23 *Eff. August 1, 1995.*

24