

## Article 30.

### Practice of Acupuncture.

#### **§ 90-450. Purpose.**

It is the purpose of this Article to promote the health, safety, and welfare of the people of North Carolina by establishing an orderly system of acupuncture licensing and to provide a valid, effective means of establishing licensing requirements. (1993, c. 303, s. 1.)

#### **§ 90-451. Definitions.**

The following definitions apply in this Article:

- (1) Acupuncture. – A form of health care developed from traditional and modern Chinese medical concepts that employ acupuncture diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.
- (2) Board. – The Acupuncture Licensing Board.
- (3) Practice of acupuncture or practice acupuncture. – The insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon acupuncture diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include massage, mechanical, thermal, electrical, and electromagnetic treatment and the recommendation of herbs, dietary guidelines, and therapeutic exercise. (1993, c. 303, s. 1.)

#### **§ 90-452. Practice of acupuncture without license prohibited.**

(a) Unlawful Acts. – It is unlawful to engage in the practice of acupuncture without a license issued pursuant to this Article. It is unlawful to advertise or otherwise represent oneself as qualified or authorized to engage in the practice of acupuncture without having the license required by this Article. A violation of this subsection is a Class 1 misdemeanor.

(b) Exemptions. – This section shall not apply to any of the following persons:

- (1) A physician licensed under Article 1 of this Chapter.
- (2) A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the Board.
- (3) A chiropractor licensed under Article 8 of this Chapter. (1993, c. 303, s. 1; 1994, Ex. Sess., c. 14, s. 48.)

#### **§ 90-453. Acupuncture Licensing Board.**

(a) Membership. – The Acupuncture Licensing Board shall consist of nine members, three appointed by the Governor and six by the General Assembly. The six members appointed by the General Assembly shall be licensed to practice acupuncture in this State and shall not be licensed physicians under Article 1 of this Chapter. The persons initially appointed to those positions by the General Assembly need not be licensed at the time of selection but shall have met the qualifications under G.S. 90-455(a)(4) and (5). Of the Governor's three appointments, one shall be a layperson who is not employed in a health care profession; one shall be a physician licensed under Article 1 of this Chapter who has successfully completed 200 hours of Category I American Medical Association credit in medical acupuncture training as recommended by the American Academy of Medical Acupuncture; and one shall be licensed to practice acupuncture in this State.

Of the members to be appointed by the General Assembly, three shall be appointed upon the recommendation of the Speaker of the House of Representatives, and three shall be appointed upon the recommendation of the President Pro Tempore of the Senate. The members appointed by the General Assembly must be appointed in accordance with G.S. 120-121.

Members serve at the pleasure of the appointing authority. Vacancies shall be filled by the original appointing authority and the term shall be for the balance of the unexpired term. A vacancy by a member appointed by the General Assembly must be filled in accordance with G.S. 120-122.

(b) Terms. – The members appointed initially by the Governor shall each serve a term ending on June 30, 1994. Of the General Assembly's initial appointments upon the recommendation of the Speaker of the House of Representatives, one shall serve a term ending June 30, 1995, and the other shall serve a term ending June 30, 1996. Of the General Assembly's initial appointments upon the recommendation of the President Pro Tempore of the Senate, one shall serve a term ending June 30, 1995, and the other shall serve a term ending June 30, 1996. After the initial appointments, all members shall be appointed for terms of three years beginning on July 1. No person may serve more than two consecutive full terms as a member of the Board.

(c) Meetings. – The Board shall meet at least once each year within 45 days after the appointment of the new members. At the Board's first meeting each year after the new members have been appointed, the members shall elect a chair of the Board and a secretary for the year. No person shall chair the Board for more than five consecutive years. The Board shall meet at other times as needed to perform its duties. A majority of the Board shall constitute a quorum for the transaction of business.

(d) Compensation. – Members of the Board are entitled to compensation and to reimbursement for travel and subsistence as provided in G.S. 93B-5. (1993, c. 303, s. 1; 2007-472, s. 1.)

#### **§ 90-454. Powers and duties of Board.**

The Board may:

- (1) Deny, issue, suspend, and revoke licenses in accordance with rules adopted by the Board, and may collect fees, investigate violations of this Article, and otherwise administer the provisions of this Article.
- (2) Sponsor or authorize other entities to offer continuing education programs, and approve continuing education requirements for license renewal.
- (3) Establish requirements for, collect fees from, and approve schools of acupuncture in this State. The requirements shall be at least as stringent as the core curricula standards of the Council of Colleges of Acupuncture and Oriental Medicine.
- (4) Sue to enjoin violations of G.S. 90-452. The court may issue an injunction even though no person has yet been injured as a result of the unauthorized practice.
- (5) Adopt and use a seal to authenticate official documents of the Board.
- (6) Employ and fix the compensation of personnel and professional advisors, including legal counsel, as may be needed to carry out its functions, and purchase, lease, rent, sell, or otherwise dispose of personal and real property for the operations of the Board.
- (7) Expend funds as necessary to carry out the provisions of this Article from revenues and interest generated by fees collected under this Article.

- (8) Adopt rules to implement this Article in accordance with Chapter 150B of the General Statutes.
- (9) Establish practice parameters to become effective July 1, 1995. The practice parameters shall be applicable to general and specialty areas of practice. The Board shall review the parameters on a regular basis and shall require licensees to identify parameters being utilized, the plan of care, and treatment modalities utilized in accordance with the plan of care. (1993, c. 303, s. 1; 2005-379, s. 1.)

**§ 90-455. Qualifications for license; renewal; inactive, suspended, expired, or lapsed license.**

(a) Initial License. – To receive a license to practice acupuncture, a person shall meet all of the following requirements:

- (1) Submit a completed application as required by the Board.
- (2) Submit any fees required by the Board.
- (3) Submit proof of successful completion of a licensing examination administered or approved by the Board.
- (4) Provide documentary evidence of having met one of the following standards of education, training, or demonstrated experience:
  - a. Successful completion of a three-year postgraduate acupuncture college or training program approved by the Board.
  - b. Continuous licensure to practice acupuncture by an agency of another state or another state whose qualifications for licensure meet or exceed those of this State for at least 10 years before application for licensure in this State during which time no disciplinary actions were taken or are pending against the applicant and submitting proof to the Board that the applicant has fulfilled at least an average of 20 continuing education units in acupuncture or health care-related studies for each of the 10 years preceding application for licensure.
- (5) Submit proof of successful completion of the Clean Needle Technique Course offered by the Council of Colleges of Acupuncture and Oriental Medicine.
- (6) Be of good moral character.
- (7) Is not currently or has not engaged in any practice or conduct that would constitute grounds for disciplinary action pursuant to G.S. 90-456.
- (8) Submit a form signed by the applicant attesting to the intention of the applicant to adhere fully to the ethical standards adopted by the Board.

(b) Renewal of License. – The license to practice acupuncture shall be renewed every two years. Upon submitting all required declarations, documents, and fees required by the Board for renewal, the applicant's license shall remain in good standing for a period of up to 120 days during which time the Board shall meet to review and act upon the application for renewal. To renew a license, an applicant shall:

- (1) Submit a completed application as required by the Board.
- (2) Submit any fees required by the Board.
- (3) Upon request by the Board, submit proof of completion of 40 hours of Board-approved continuing education units within each renewal period.

(c) Inactive License. – A licensed acupuncturist who is not actively engaged in the practice of acupuncture in this State and who does not wish to renew the license may direct the Board to place the license on inactive status. A license may remain on inactive status for a period not to

exceed eight years from the date the license was placed on inactive status. Upon an applicant's proof of completion of 40 hours of Board-approved continuing education units, payment of all fees, a determination by the Board that the applicant is not engaged in any prohibited activities that would constitute the basis for discipline as set forth in G.S. 90-456, and has not engaged in any of those prohibited activities during the period of time the license has been on inactive status, the Board may activate the license of the applicant.

(d) **Suspended License.** – A suspended license is subject to the renewal requirements of this section and may be renewed as provided in this section. This renewal does not entitle the licensed person to engage in the licensed activity or in any other conduct or activity in violation of the order or judgment by which the license was suspended, until the license is reinstated. If a license revoked on disciplinary grounds is reinstated and requires renewal, the licensed person shall pay the renewal fee and any applicable late fee.

(e) **Expired License.** – A license that has expired as a result of failure to renew pursuant to subsection (b) of this section may be renewed no later than two years after its expiration. The date of renewal shall be the date the Board acts to approve the renewal. To apply for renewal of an expired license, the applicant shall:

- (1) File an application for renewal on a form provided by the Board.
- (2) Submit proof of completion of all continuing education requirements.
- (3) Pay all accrued renewal fees, along with an expired license fee.

(f) **Lapsed License.** – A license that has lapsed as a result of not being renewed within two years after the license expired or not reactivated within eight years after the license lapsed is deemed inactive. A lapsed license may not be renewed, reactivated, or reinstated. A person with a lapsed license may apply to obtain a new license pursuant to subsection (a) of this section. (1993, c. 303, s. 1; 2005-379, s. 2.)

#### **§ 90-456. Prohibited activities.**

The Board may deny, suspend, or revoke a license, require remedial education, or issue a letter of reprimand, if a licensed acupuncturist or applicant:

- (1) Engages in false or fraudulent conduct which demonstrates an unfitness to practice acupuncture, including any of the following activities:
  - a. Misrepresentation in connection with an application for a license or an investigation by the Board.
  - b. Attempting to collect fees for services which were not performed.
  - c. False advertising, including guaranteeing that a cure will result from an acupuncture treatment.
  - d. Dividing, or agreeing to divide, a fee for acupuncture services with anyone for referring a patient.
- (2) Fails to exercise proper control over one's practice by any of the following activities:
  - a. Aiding an unlicensed person in practicing acupuncture.
  - b. Delegating professional responsibilities to a person the acupuncturist knows or should know is not qualified to perform.
  - c. Failing to exercise proper control over unlicensed personnel working with the acupuncturist in the practice.
- (3) Fails to maintain records in a proper manner by any of the following:

- a. Failing to keep written records describing the course of treatment for each patient.
  - b. Refusing to provide to a patient upon request records that have been prepared for or paid for by the patient.
  - c. Revealing personally identifiable information about a patient, without consent, unless otherwise allowed by law.
- (4) Fails to exercise proper care for a patient, including either of the following:
    - a. Abandoning or neglecting a patient without making reasonable arrangements for the continuation of care.
    - b. Exercising, or attempting to exercise, undue influence within the acupuncturist/patient relationship by making sexual advances or requests for sexual activity or making submission to such conduct a condition of treatment.
  - (5) Displays habitual substance abuse or mental impairment so as to interfere with the ability to provide effective treatment.
  - (6) Is convicted of or pleads guilty or no contest to any crime which demonstrates an unfitness to practice acupuncture.
  - (7) Negligently fails to practice acupuncture with the level of skill recognized within the profession as acceptable under such circumstances.
  - (8) Willfully violates any provision of this Article or rule of the Board.
  - (9) Has had a license denied, suspended, or revoked in another jurisdiction for any reason which would be grounds for this action in this State. (1993, c. 303, s. 1.)

**§ 90-457. Fees.**

The Board may establish fees, not to exceed the following amounts:

- (1) Application and an examination, one hundred dollars (\$100.00).
- (2) Issuance of a license, five hundred dollars (\$500.00).
- (3) Renewal of a license, three hundred dollars (\$300.00).
- (4) Renewal of a license, an additional late fee of two hundred dollars (\$200.00).
- (5) Duplicate license fee, twenty-five dollars (\$25.00).
- (6) Duplicate wall certificate fee, fifty dollars (\$50.00).
- (7) Labels for licensed acupuncturists, one hundred fifty dollars (\$150.00).
- (8) Returned check fee, forty dollars (\$40.00).
- (9) Licensure verification, forty dollars (\$40.00).
- (10) Name change, twenty-five dollars (\$25.00).
- (11) Continuing education program approval fee, fifty dollars (\$50.00).
- (12) Continuing education provider approval fee, two hundred dollars (\$200.00).
- (13) Initial school application fee, one thousand dollars (\$1,000).
- (14) Renewal school approval fee, seven hundred fifty dollars (\$750.00).
- (15) Inactive license renewal fee, fifty dollars (\$50.00), payment due for each two-year extension. (1993, c. 303, s. 1; 2005-379, s. 3.)

**§ 90-457.1. Continuing education.**

(a) Applicants for license renewal shall complete all required continuing education units during the two calendar years immediately preceding the license renewal date.

(b) The Board shall set the minimum hours for study of specific subjects within the scope of practice of acupuncture. The Board shall set the maximum hours for subjects that have content relating to any health service and are relevant to the practice of acupuncture. In addition to formally organized courses, the Board may approve courses, such as personal training in nonaccredited programs and teaching diagnosis and treatment, as long as these courses have received prior approval by the Board.

(c) For purposes of this Article, one continuing education unit is defined as one contact hour or 50 minutes.

(d) The Board may choose to audit the records of any licensee who has reported and sworn compliance with the continuing education requirement. The audit of any licensee shall not take place more than every two years.

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

(f) A licensee may apply to the Board for an extension of time to complete the portion of continuing education requirements that the licensee is unable to meet due to such unforeseeable events as military duty, family emergency, or prolonged illness. The Board may, at its discretion, grant an extension for a maximum of one licensing period. The Board shall receive the request no later than 30 days before the license renewal date. The applicant shall attest that the request is a complete and accurate statement, and the request shall contain the following:

- (1) An explanation of the licensee's failure to complete the continuing education requirements.
- (2) A list of continuing education courses and hours that the licensee has completed.
- (3) The licensee's plan for satisfying the continuing education requirements. (2005-379, s. 4.)

**§ 90-458. Use of titles and display of license.**

The titles "Licensed Acupuncturist" or "Acupuncturist" shall be used only by persons licensed under this Article. Possession of a license under this Article does not by itself entitle a person to identify oneself as a doctor or physician. Each person licensed to practice acupuncture shall post the license in a conspicuous location at the person's place of practice. (1993, c. 303, s. 1.)

**§ 90-459. Third-party reimbursements.**

Nothing in this Article shall be construed to require direct third-party reimbursement to persons licensed under this Article. (1993, c. 303, s. 1.)

**§ 90-460:** Reserved for future codification purposes.

**§ 90-461:** Reserved for future codification purposes.

**§ 90-462:** Reserved for future codification purposes.

**§ 90-463:** Reserved for future codification purposes.

**§ 90-464:** Reserved for future codification purposes.

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