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Proposed Rulemaking

Title

Promulgated by:
Arkansas State Board of Acupuncture and Related Techniques

Title 17. Professions, Occupations, and Businesses

Chapter XXXII. Arkansas State Board of Acupuncture and Related Techniques, Department of Health, State Board of Health

Subchapter A. Generally

Part 170. Rules of the Arkansas State Board of Acupuncture and Related Techniques

Subpart 1. Generally

17 CAR § 170-101. Definitions.

For the purpose of this ~~part~~ part ~~t~~he following definitions apply in addition to those in the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq.:

(1) "Act" means the Arkansas Acupuncture Practices Act, as found in Arkansas Code § 17-102-101 et seq.;

(2)(A) "Acupuncture" means the insertion, manipulation, and removal of acupuncture needles from the body and the use of other modalities and procedures at specific locations on the body for the prevention, cure, or correction of a malady, illness, injury, pain, or other condition or disorder by controlling and regulating the flow and balance of energy and functioning of the patient to restore and maintain health.

(B) Acupuncture shall not be considered surgery;

(3) "Acupuncturist" means a person licensed under the Arkansas Acupuncture Practices Act to practice acupuncture and related techniques in the State of Arkansas and includes the term "licensed acupuncturist" and the abbreviation "L.Ac.";

(4) "Applicant" means a person who has submitted to the Arkansas State Board of Acupuncture and Related Techniques an application for licensure;

(5) "Board" means the Arkansas State Board of Acupuncture and Related Techniques;

(6)(A) "Clinical experience" means the practice of acupuncture and related techniques, as defined in the Arkansas Acupuncture Practices Act, after graduation from an educational program in acupuncture and related techniques as required herein.

(B) A year of clinical experience shall be consistent with the National Certification ~~Commission~~ Board for Acupuncture and ~~Oriental~~ Herbal Medicine's (~~NCCAOM~~ NCBAHM) requirements;

(7) "Institution" means a school that teaches an educational program in acupuncture and related techniques, is certified by the Accreditation Commission for Acupuncture and Herbal Medicine, and that has been approved by the Arkansas State Board of Acupuncture and Related Techniques, pursuant to Arkansas Code § 17-102-304(b);

(8)(A) "Licensee" means an individual licensed pursuant to the Arkansas Acupuncture Practices Act and defined as an acupuncturist under subdivision (3) of this section.

(B) Those persons exempted under Arkansas Code § 17-102-311 shall not be considered as licensed under the Arkansas Acupuncture Practices Act and shall not use the descriptive term "licensed" referring to an acupuncture practice in Arkansas;

(9) "Moxibustion" means the use of heat on, or above, or on acupuncture needles, at specific locations on the body for the prevention, cure, or correction of a malady, illness, injury, pain, or other condition or disorder;

(10) "Office" means the physical facility used for the practice of acupuncture and related techniques;

(11) "Related techniques" means the techniques used in the Chinese and Asian traditional healing arts in addition to acupuncture as set out in 17 CAR § 170-102, including Chinese herbs;

(12) "Rules" means the rules promulgated pursuant to the Arkansas Acupuncture Practices Act governing acupuncturists, applicants, educational programs, educational institutions, and all matters covered by the Arkansas Acupuncture Practices Act;

(13) "Supervised clinical practice" means the observation and application of acupuncture and related techniques in actual treatment situations under appropriate supervision, as defined by ~~NCCAOM~~ NCBAHM; and

(14) "Supervision" means the coordination, direction, and continued evaluation at first hand of the person in training or engaged in obtaining clinical practice and shall be provided by a qualified instructor or tutor as set forth in an Arkansas State Board of Acupuncture and Related Techniques-approved institute of acupuncture and related techniques.

17 CAR § 170-102. Scope of practice.

(a)(1) The practice of acupuncture and related techniques in Arkansas is a distinct system of primary health care with the goal of prevention, cure, or correction of any illness, injury, pain, or other disorder or condition by controlling and regulating the flow and balance of energy and functioning of the person to restore and maintain health.

(2) Acupuncture and related techniques include all of the allied traditional and modern diagnostic, treatment, and therapeutic methods of the ~~Chinese/Asian~~ Asian healing arts.

(b) The scope of practice of acupuncturists shall include, but is not limited to:

(1) Evaluation and management services;

(2) Examination and diagnostic testing;

(3) The ordering of radiological, laboratory, or other diagnostic tests;

(4) The stimulation of points or areas of the body using:

(A) Needles;

(B) Moxibustion and other heating modalities;

(C) Cold;

(D) Light;

(E) Lasers;

(F) Sound;

(G) Vibration;

(H) Magnetism;

(I) Electricity;

(J) Cupping;

(K) Bleeding;

(L) Suction;

(M) Pressure;

(N) Ion pumping cords; or

(O) Other devices or means;

(5) Physical medicine modalities and techniques, including:

(A) Tuina;

(B) Gua sha;

(C) Shiatsu;

(D) Anmo; and

(E) Other massage incidental to acupuncture and related techniques;

(6) Therapeutic exercises, breathing techniques, meditation, and the use of biofeedback and other devices that utilize color, light, sound, electromagnetic energy, and other means therapeutically;

(7) Dietary and nutritional counseling and the administration of food, beverages, and dietary supplements therapeutically;

(8) The recommendation of any Chinese herbal medicine, Western herbal medicine, or substances such as vitamins, minerals, enzymes, amino acids, nutritional supplements, and glandulars lawfully and commercially available in the United States; and

(9) Counseling regarding physical, emotional, and spiritual lifestyle balance.

(c) Provided, however, the practice of acupuncture in Arkansas shall not involve:

(1) Manipulation, mobilization, or adjustment to the spine or extra-spinal articulations; or

(2) The prescribing, dispensing, injection, or administering of any substance or legend drug as defined under Arkansas Code § 20-64-503.

Subpart 2. Board Powers and Duties

17 CAR § 170-201. Board composition and duties.

In addition to its duties described in the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq., the Arkansas State Board of Acupuncture and Related Techniques shall:

(1)(A) Meet in special meetings at any time.

(B) Notice of special meetings shall be provided to board members, the media that have requested notification, and all other interested parties who have requested notification of such meeting at least twenty-four (24) hours in advance of such special meetings;

(2)(A) Meet in regular meetings upon such a schedule as shall be set by the board.

(B) Notice of regular meetings shall be provided to board members, the media, and all interested parties who have requested notification of such meeting at least three (3) days in advance of such regular meetings;

(3) Keep a file of all approved educational programs;

(4) Keep a file of all licensees and provisional licensees;

(5) Issue certificates of approval of educational programs and educational institutions;

(6) Delegate its ministerial duties if it so chooses, as provided by the Arkansas Acupuncture Practices Act;

(7) Notify the Governor when any board member has missed three (3) consecutive regular meetings without attending any intermediate special meeting;

(8) Elect a president, secretary, and treasurer at the first board meeting held each May; and

(9) Perform such other duties and shall exercise such other powers as may be conferred upon it by statute, or as may be reasonably implied from such statutory powers and duties and as may be reasonably necessary in the performance of its responsibilities under the Arkansas Acupuncture Practices Act, pursuant to Arkansas Code § 17-102-206.

17 CAR § 170-202. Public records.

All records kept by the Arkansas State Board of Acupuncture and Related Techniques shall be available for public inspection pursuant to the:

(1) Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.; and

(2) Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

17 CAR § 170-203. Meetings of the board.

(a) **Regular meetings.** The Arkansas State Board of Acupuncture and Related Techniques shall meet at least once in every six (6) months and may meet more often.

(b) **Special meetings.** The board may meet in special meetings called at any time at the pleasure of the President of the Arkansas State Board of Acupuncture and Related Techniques or by the Secretary of the Arkansas State Board of Acupuncture and Related Techniques upon the request of any two (2) full members of the board.

(c) **Quorum.**

(1) A quorum of the board shall consist of three (3) full members of the board in attendance at any meeting.

(2) For purposes of determining a quorum, the ex officio member shall not be considered a full member.

(d) **Voting.**

(1)(A) Any and every official action taken by the board shall require an affirmative vote of a majority of the full membership of the board.

(B) That is, three (3) out of the five (5) full members.

(2) No vote on any official action shall include a vote by the ex officio member.

17 CAR § 170-204. Adoption of rules.

(a)(1) The Arkansas State Board of Acupuncture and Related Techniques may adopt such rules as are necessary to conduct its business and administer its duties as found in the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq.

(2) All rules shall be adopted pursuant to the provisions of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(3) Prior to any proposed rule being submitted to the Administrative Rules Subcommittee of the Legislative Council, said rule shall be approved in writing by the Arkansas State Medical Board.

(b)(1) In addition to rules proposed by the Arkansas State Board of Acupuncture and Related Techniques, interested parties may petition the Arkansas State Board of Acupuncture and Related Techniques for a change in or addition to the rules pursuant to the Arkansas Administrative Procedure Act.

(2) The Arkansas State Board of Acupuncture and Related Techniques shall consider such written request at its next regular meeting.

Subpart 3. Licensure

17 CAR § 170-301. General.

All agency action regarding licensure shall be governed by the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq., and, when applicable, the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

17 CAR § 170-302. Requirement to keep current addresses on file.

(a) All persons holding a license issued by the Arkansas State Board of Acupuncture and Related Techniques are required to provide the board with information so that the board can remain in contact and provide notice of complaints ~~and/or~~ or hearings.

(b) The licensee is required to provide written notice to the board of any change in business ~~and/or~~ or residence address within ten (10) working days of the change.

(c) Service of notices of hearing sent by mail will be addressed to the latest address on file with the board.

17 CAR § 170-303. Application for original licensure.

(a) The Arkansas State Board of Acupuncture and Related Techniques shall not cause a license to be issued to any person it has deemed to be unqualified pursuant to the provisions of the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq., and this part.

(b) All applicants are required to:

(1) Be at least twenty-one (21) years of age;

(2) Be a citizen of the United States, be a legal resident, or hold a federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document, known popularly as a "work permit";

(3) Not have had a license to practice acupuncture and related techniques in any other state suspended or revoked nor have been placed on probation for any cause;

(4) Not have been convicted of a felony listed in Arkansas Code § 17-3-102; and

(5) Not be a habitual user of intoxicants, drugs, or hallucinatory preparations.

(c) Every applicant must provide a statement signed by the applicant and the signature verified by a notary public as to whether he or she:

(1) Has had a license to practice acupuncture and related techniques in any other state suspended or revoked or been placed on probation for any cause; and

(2) Has been convicted of a felony listed in Arkansas Code § 17-3-102.

(d)(1) Every person seeking an original Arkansas license to practice acupuncture and related techniques shall file an application on the current form provided by the board.

(2) All applications must be complete and in English.

(e) **Exhibits required.** Every application shall be accompanied by:

(1) The fee for application for licensure specified in 17 CAR §§ 170-305 and 170-306; and

(2) A notarized form signed by the applicant authorizing the release to the board of additional information regarding the applicant and his or her qualifications for licensure, including, but not limited to:

(A) Educational background;

(B) Criminal background check;

(C) Transcripts;

(D) Credentials; and

(E) Accreditation information on educational institutions.

(f) **Verification.** Verification of the applicant's education shall include:

(1) A certified copy of the applicant's certificate or diploma from an accredited educational institution evidencing completion of the required program of study in acupuncture and related techniques; and

(2) An official copy of the applicant's transcript that shall:

(A) Be sent directly to the board by the approved educational institution from which the applicant received the certificate or diploma;

(B) Verify the applicant's satisfactory completion of the required academic and clinical education; and

(C) Designate the completed subjects and the hours of study completed in each subject.

(g) **Sufficiency of document.**

(1) The board shall determine the sufficiency of the documentation to support the application for licensure.

(2) ~~The board may, in its sole discretion, request further documentation, proof of qualifications, and/or require a personal interview with any applicant to establish his or her qualifications.~~ The board may, in its sole discretion, employ any one (1) or more of the following to establish the qualifications of an applicant:

(A) Request further documentation;

(B) Request proof of qualifications; or

(C) Require a personal interview with the applicant.

17 CAR § 170-304. Authorized forms.

(a) The Arkansas State Board of Acupuncture and Related Techniques shall authorize such forms as are necessary from time to time for the:

(1) Application for licenses; and

(2) Renewal of licenses.

(b) The authorized forms may be reproduced without permission from the board but shall not be altered or changed in any way by any prospective licensee.

(c) Authorized forms shall be available from the board to any member of the public or any prospective licensee.

(d) Requests for forms may be made in writing or by telephone call to the board at its offices or to the Secretary of the Arkansas State Board of Acupuncture and Related Techniques.

17 CAR § 170-305. Requirements for licensing.

(a) **Educational requirements.**

(1)(A) Every applicant shall provide satisfactory proof that he or she has:

(i) Completed and graduated from an approved four-year academic educational program in acupuncture and related techniques; ~~and~~

(ii) Received a certificate or diploma for completion of the approved educational program from an institute approved under subdivision (a)(2) of this section~~.~~ ; and

(iii) Passed a nationally recognized clean-needle-technique course.

(B) The program must include an education in Chinese herbal medicine, as required by the Accreditation Commission for Acupuncture and Herbal Medicine (ACAHM).

(2) **Approved educational institution and program.**

(A) For the Arkansas State Board of Acupuncture and Related Techniques to determine that an institution meets the standards of professional education, the

institution must require a program of study of at least four (4) academic years that must:

(i) Meet the ACAHM's level of education and standards or other criteria as found reasonable by the board;

(ii) Require participation by students in a supervised clinical or internship program that includes a minimum of eight hundred (800) hours of supervised clinical practice; and

(iii) Confer a certificate, diploma, or degree only after personal attendance in classes and clinics.

(B) An applicant from a foreign institution shall provide documentation to show that the institution and program meets the same or higher standards.

(3) **Prerequisites.** Has successfully completed not fewer than sixty (60) semester credit hours of college education, to include a minimum of thirty (30) semester credit hours in a relevant field of science, including, but not limited to:

(A) Biology;

(B) Chemistry;

(C) Anatomy;

(D) Physiology; and

(E) Psychology.

(b) **Examination requirement.** ~~An applicant shall be required to pass a board-approved nationally recognized examination on Oriental medicine or on both acupuncture and Chinese herbal medicine.~~ An applicant shall be required to pass the National Certification ~~Commission~~ Board for Acupuncture and ~~Oriental~~ Herbal Medicine examinations for:

(1) ~~Oriental~~ Acupuncture and Herbal Medicine Certification; or

(2) Both Acupuncture Certification and Chinese Herbology Certification.

17 CAR § 170-306. Fees.

The Arkansas State Board of Acupuncture and Related Techniques shall charge fees for the following, in compliance with Arkansas Code § 17-102-304(d)(1) – (7):

(1)(A) ~~Initial/reciprocal~~ Initial or reciprocal application for licensing, set at two hundred fifty dollars ($250).

(B) The board shall waive the initial application fee if the applicant:

(i) Is receiving assistance through the:

(a) Arkansas Medicaid Program;

(b) Supplemental Nutrition Assistance Program;

(c) Special Supplemental Nutrition Program for Women, Infants, and Children;

(d) Temporary Assistance for Needy Families Program; or

(e) Lifeline Assistance Program;

(ii) Was approved for unemployment within the last twelve (12) months; or

(iii) Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines;

(2) Biennial licensing renewal of original and reciprocal licensees, set at four hundred dollars ($400);

(3) Late renewal (in addition to the renewal fee), set at one hundred dollars ($100);

(4) Continuing education provider one-time registration fee, set at two hundred dollars ($200); and

(5) Administrative support fee (annual), set at one hundred dollars ($100).

17 CAR § 170-307. Reciprocal licensing.

(a) **Required qualifications.**

(1) An applicant applying for reciprocal licensure shall hold a substantially similar license in another United States jurisdiction.

(2) A license from another state is substantially similar to an Arkansas license if an applicant has, or the other state's licensure qualifications require an applicant to have, passed ~~an examination or~~ examinations given by the National Certification

~~Commission~~ Board for Acupuncture and ~~Oriental~~ Herbal Medicine (~~NCCAOM~~ NCBAHM) ~~in either~~ for:

(A) ~~Oriental~~ Acupuncture and Herbal ~~medicine~~ Medicine Certification; or

(B) Both ~~acupuncture~~ Acupuncture Certification and Chinese ~~herbal medicine~~ Herbology Certification.

(3) The applicant shall hold his or her occupational licensure in good standing.

(4) The applicant shall not have had a license revoked for:

(A) An act of bad faith; or

(B) A violation of law, rule, or ethics.

(5) The applicant shall not hold a suspended or probationary license in a United States jurisdiction.

(b) **Required documentation.**

(1) An applicant shall submit:

(A) A fully executed application;

(B) The required fee; and

(C) The documentation described below.

(2) As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit the following information:

(A)(i) Evidence of current and active licensure in that state.

(ii) The Arkansas State Board of Acupuncture and Related Techniques may verify this information online or by telephone; and

(B)(i) Evidence that the applicant has passed ~~an examination or~~ the examinations given by ~~NCCAOM~~ the National Certification ~~Commission~~ Board for Acupuncture and ~~Oriental~~ Herbal Medicine for ~~in~~ either:

(a) ~~Oriental~~ Acupuncture and Herbal ~~medicine~~ Medicine Certification; or

(b) Both ~~acupuncture~~ Acupuncture Certification and Chinese ~~herbal medicine~~ Herbology Certification.

(ii) The board may verify this information online or by telephone.

(C) Evidence that the applicant has passed a nationally recognized clean-needle-technique course.

(3) To demonstrate that the applicant has not had a license revoked for bad faith or a violation of law, rule, or ethics, as required by subdivision (a)(4) of this section, and that the applicant does not hold a license on suspended or probationary status, as required by subdivision (a)(5) of this section, the applicant shall provide the board with:

(A) The names of all states in which the applicant is currently licensed or has been previously licensed;

(B)(i) Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant:

(a) Has not had his or her license revoked for the reasons listed in subdivision (a)(4) of this section; and

(b) Does not hold a license on suspended or probationary status as described in subdivision (a)(5) of this section.

(ii) The board may verify this information online or by telephone.

(c) **Temporary license.**

(1) The board shall issue a temporary license immediately upon receipt of the:

(A) Application;

(B) Required fee; and

(C) Documentation required under subdivisions (b)(2)(A) and (B) of this section to show that the applicant has a license in good standing from another jurisdiction that is substantially similar to an Arkansas license.

(2) An applicant shall submit a completed application with all required remaining documentation in order to receive a license.

(3) The temporary license shall be effective for at least ninety (90) days or until the board makes a decision on the application, whichever occurs first.

17 CAR § 170-308. Acupuncture detox specialists.

(a) Detox specialists shall register with the Arkansas State Board of Acupuncture and Related Techniques by providing either:

(1) A certified copy of documentation of the completion of the National Acupuncture Detoxification Association (NADA) certification course; or

(2) Evidence of active certification, or registration or licensure, as an acupuncture detox specialist in another state.

(b) An acupuncture detox specialist shall be permitted to practice only under the supervision of an acupuncturist who is licensed by the board.

(c) An acupuncture detox specialist shall be permitted to use only the five-point ear protocol of NADA for substance abuse and shall not treat or offer treatment in any other capacity.

17 CAR § 170-309. Acupuncture applicants from states that do not license acupuncturists.

(a) An applicant from a state that does not license acupuncturists shall be sufficiently competent in the field of acupuncture and related techniques.

(b) **Required documentation.**

(1) An applicant shall submit:

(A) A fully executed application; and

(B) The required fee.

(2)(A) As evidence that the applicant is sufficiently competent in the field of acupuncture and related techniques, the applicant shall provide evidence that the applicant has passed ~~an examination or examinations given by NCCAOM in~~ examinations given by the National Certification ~~Commission~~ Board for Acupuncture and ~~Oriental~~ Herbal Medicine for either:

(i) ~~Oriental~~ Acupuncture and ~~medicine~~ Herbal Medicine Certification; or

(ii) Both ~~acupuncture~~ Acupuncture Certification and Chinese ~~herbal medicine~~ Herbology Certification.

(B) The Arkansas State Board of Acupuncture and Related Techniques may verify this information online or by telephone.

17 CAR § 170-310. Military licensure.

(a) As used in this section:

(1) "Automatic licensure" means the granting of occupational licensure without an individual's having met occupational licensure requirements provided under Title 17 of the Arkansas Code or by this part; and

(2) "Uniformed service veteran" means a former member of the uniformed services of the United States who was discharged under circumstances other than dishonorable.

(b) The Arkansas State Board of Acupuncture and Related Techniques shall grant automatic licensure to an individual who is the holder in good standing of a license with a similar scope of practice issued by another state, territory, or district of the United States and is:

(1) A uniformed service member stationed in the State of Arkansas;

(2) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or

(3) The spouse of:

(A) A person under subdivisions (b)(1) or (b)(2) of this section;

(B) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or

(C) A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

(c) The board shall grant such automatic licensure upon receipt of all of the below:

(1) Payment of the initial licensure fee;

(2) Evidence that the individual holds a license with a similar scope of practice in another state; and

(3) Evidence that the applicant is a qualified applicant under subdivisions (b)(1), (b)(2), or (b)(3) of this section.

(d) The expiration date of a license for a deployed uniformed service member or spouse will be extended for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(e) A full exemption from continuing education requirements will be allowed for a deployed uniformed service member or spouse until one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(f) The board shall accept relevant and applicable uniformed service education, training, national certification, or service-issued credential toward licensure qualifications or requirements when considering an application for initial licensure of an individual listed in Arkansas Code § 17-4-104.

17 CAR § 170-311. Prelicensure criminal background check.

(a) Pursuant to ~~Acts 2019, No. 990~~ Arkansas Code § 17-3-103, an individual may petition for a prelicensure determination of whether the individual's criminal record will disqualify the individual from licensure.

(b) The individual must obtain the prelicensure criminal background check petition form from the Arkansas State Board of Acupuncture and Related Techniques.

(c) The board's staff will respond with a decision in writing to a completed petition within a reasonable time.

(d) The board's staff's response will state the reasons for the decision.

(e) All decisions of the board's staff in response to the petition will be determined by the information provided by the individual.

(f) A decision of the board's staff in response to a prelicensure criminal background check petition is not subject to appeal.

(g) The board will retain a copy of the petition and response, and it will be reviewed during the formal application process.

17 CAR § 170-312. Waiver request.

(a) If an individual has been convicted of an offense listed in Arkansas Code § 17-3-102(a) or (e), the Arkansas State Board of Acupuncture and Related Techniques may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by an:

(1) Affected applicant for a license; or

(2) Individual holding a license subject to revocation.

(b) The board may grant a waiver upon consideration of the following, without limitation:

(1) The age at which the offense was committed;

(2) The circumstances surrounding the offense;

(3) The length of time since the offense was committed;

(4) Subsequent work history since the offense was committed;

(5) Employment references since the offense was committed;

(6) Character references since the offense was committed;

(7) Relevance of the offense to the occupational license; and

(8) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

(c) A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.

(d) The board will:

(1) Respond with a decision in writing; and

(2) State the reasons for the decision.

(e) An appeal of a determination under this section will be subject to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

17 CAR § 170-313. License renewal.

(a) Every applicant for license renewal must provide a statement as to whether he or she, since applying for licensure or since last applying for license renewal, whichever occurred most recently:

(1) Has been subject to any disciplinary action in any jurisdiction related to:

(A) The practice of acupuncture and related techniques; or

(B) Any other health care professions for which the applicant for license renewal is licensed, certified, registered, or legally recognized to practice; and

(2) Has been convicted of a felony listed under Arkansas Code § 17-3-102 in any jurisdiction.

(b) Any applicant for license renewal who has been subject to any action or proceeding comprehended by 17 CAR § 170-301 may be subject to disciplinary action, including denial, suspension, or revocation of licensure.

(c) **Licensing period.**

(1) The licensing period shall run from January 1 to the second consecutive December 31.

(2) A newly licensed acupuncturist shall be issued a license that shall be required to be renewed on the second December 31 following the initial date of licensure.

(3) If license is not renewed by this date, license shall expire and licensee shall not practice until such time that renewal requirements have been met.

(4) The Arkansas State Board of Acupuncture and Related Techniques shall send renewal notifications to licensees no later than December 1.

(d) **License renewal.** Except as provided otherwise in the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq., or in this part, or pursuant to other state law, each licensed acupuncturist shall be granted renewal of his or her license for two (2) years upon receipt by the board of his or her renewal application that shall include:

(1) Any continuing education documentation required by Arkansas Code § 17-102-308 and 17 CAR § 170-314; and

(2) The fee for the biennial license renewal specified in 17 CAR § 170-306.

(e) **Late license renewal.**

(1)(A) Each licensee shall be required to pay biennial license renewal fees and meet continuing education requirements as specified in the Arkansas Acupuncture Practices Act and in this part.

(B) During a grace period of thirty (30) days after the expiration of the license (December 31), no late fee will be required.

(C) However, if a license is expired for thirty (30) days to one (1) year, the:

(i) Late renewal fee shall be assessed; and

(ii) Licensee shall meet all of the requirements of renewal.

(D) Practice of acupuncture and related techniques is not allowed during any period of expiration.

(2) An individual who meets the conditions established in Arkansas Code § 17-1-107 and can demonstrate that the individual passed the applicable examination or examinations with scores sufficient for licensure at the time the individual's initial license was issued shall, in order to be relicensed, furnish evidence of completion of the number of hours of acceptable continuing professional education computed by multiplying twelve (12) times the number of years the licensee has held an inactive or invalid license, not to exceed sixty (60) hours.

(f) **Expired license.** A licensee shall not practice acupuncture and related techniques following the expiration of the license, until such time that the expired license is renewed pursuant to subsections (d) and (e) of this section.

17 CAR § 170-314. Continuing education.

(a) The Arkansas State Board of Acupuncture and Related Techniques shall not renew the license of any licensee unless the licensee presents to the board evidence of attendance at a board-approved educational session or sessions of not less than twenty-four (24) hours of continuing education within the previous biennial period, which shall include a ~~CPR~~ cardiopulmonary resuscitation course for healthcare professionals, to be considered as two (2) hours of the required twenty-four (24) hours of continuing education.

(b)(1) Approved continuing education courses may not be retaken for credit in consecutive biennial periods.

(2) Proof of teaching courses related to acupuncture or related techniques may be applied to a maximum of four (4) hours of continuing education, subject to approval by the board.

(c)(1) The board may accept hours from board-approved courses or National Certification ~~Commission~~ Board for Acupuncture and ~~Oriental~~ Herbal Medicine (~~NCCAOM~~ NCBAHM)-approved courses as valid continuing education hours, provided that documentation contains:

(A) Provider contact information;

(B) Course information, including any relevant ~~NCCAOM~~ NCBAHM reference; and

(C) Official seal or signature.

(2) If the course has not been approved by ~~NCCAOM~~ NCBAHM or the board for continuing education, the licensee shall submit information to the board about the course, including:

(A) The person or organization sponsoring or presenting the course;

(B) An outline of the subject matter covered by the course; and

(C) The length of the course in hours.

(3)(A) It is the board's intention to respond to all submissions of continuing education courses for approval in a timely manner.

(B) If the submission is not specifically denied in writing by the board within sixty (60) days after the postmark of the applicant's submission, the submission shall be approved.

(4)(A) Applications for approval of providers of continuing education shall be on an individual course basis.

(B) Provider applicants shall be responsible for obtaining and submitting the proper information and fees to the board.

(5)(A) If the board denies approval for any course or courses upon application for license renewal, the applicant shall have an additional ninety (90) days to obtain the required hours during which time the applicant can continue to practice.

(B) Failure to acquire the proper hours within said ninety (90) days shall result in nonrenewal of the license.

Subpart 4. Hearings — Complaints — Disciplinary Procedures

17 CAR § 170-401. Hearing procedures on denied applications.

(a)(1) If a preliminary determination is made by the Arkansas State Board of Acupuncture and Related Techniques that an application for license should be denied, the board will inform the applicant of the grounds or basis of the proposed denial in writing.

(2) Any applicant who is denied the issuance of a license by the board may appeal such decision and request a hearing before the full board on the application.

(3) The applicant shall file the appeal in writing with the board within thirty (30) days of receipt of the notice of denial.

(b)(1) Within thirty (30) days of the filing of the appeal on the denial of a license, the board shall hold a hearing on the application.

(2) The applicant shall be notified in writing of the date, time, and location of the hearing at least twenty (20) days in advance of the hearing on the appeal.

(c) The board and the applicant shall disclose no later than ten (10) days before the hearing on the merits the names, addresses, and telephone numbers of all persons who they intend to call as witnesses at the hearing, and shall provide a list of exhibits which will be offered for introduction into evidence.

(d) The applicant shall not engage in communications with any member of the board on any matter related to the application or the appeal prior to the date set for the hearing, nor shall the board members engage in communications in violation of the:

(1) Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.; or

(2) Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

(e) At the hearing, the applicant shall be provided the opportunity to present evidence by testimony or by documents, cross-examine all witnesses, and call witnesses

for the board to consider with respect to the grant or denial of the license sought by the applicant.

(f)(1) Hearings before the board are governed by the Arkansas Administrative Procedure Act, and the board shall not be bound by the Arkansas Rules of Evidence or the Arkansas Rules of Civil Procedure in its proceedings.

(2) However, the rules may serve as a guide to the presiding officer for the conduct of the hearing.

(3) The President of the Arkansas State Board of Acupuncture and Related Techniques shall rule on all motions as well as all evidentiary and procedural matters that arise during the hearing.

(4) The board may appoint an impartial hearing officer to preside at or assist the board in any hearing.

(g) The board shall not cause a license to be issued to a person it has deemed to be unqualified until and unless the board has been satisfied that the applicant:

(1) Has complied with all the terms, conditions, and requirements set forth in the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq., and this part; and

(2) Is capable of safely and ethically engaging in the practice of acupuncture and related techniques.

(h) When an applicant has been denied a license, he or she may not reapply for a license until one (1) of the following has taken place:

(1) One (1) full year has passed since the date the license was denied; or

(2) There has been a significant change in circumstances or facts with respect to the applicant's credentials ~~and/or~~ or qualifications.

17 CAR § 170-402. Complaint and disciplinary procedures.

(a)(1) A complaint may be initiated by any person by a telephone call, a written complaint, or a walk-in complaint presented to any Arkansas State Board of Acupuncture and Related Techniques member or the board's representative.

(2)(A) The board shall prepare a complaint form.

(B) This form shall be available at the office of the board or from the Secretary of the Arkansas State Board of Acupuncture and Related Techniques.

(3) A written complaint form shall be submitted to the board to initiate the review process.

(4) If a complaint is made by telephone, a complaint form shall be mailed to the complainant.

(b) The secretary shall maintain a written log of all complaints received that records:

(1) The date of the complaint;

(2) The name, address, and telephone number of the complainant;

(3) The name of the subject of the complaint (respondent);

(4) The method by which the complaint was made~~, e.g.,~~ including without limitation: telephone, letter, ~~sworn~~ written complaint, ~~etc.~~ email; and

(5) Other pertinent data as the board may direct.

(c) Acupuncturists shall have every patient sign a form that contains the following information:

> All licensed acupuncturists are governed by Arkansas statutes Arkansas Code § 17-102-101 et seq., and the Rules of the Arkansas State Board of Acupuncture and Related Techniques (ASBART). Patients may contact ASBART for information or complaints.

17 CAR § 170-403. Procedures for receipt of a complaint.

(a) Upon receipt of a written, signed complaint, or upon the Arkansas State Board of Acupuncture and Related Techniques' own action as initiated by a vote of the majority of the members of the board acting at a duly convened meeting of the board, and as then reduced to a written complaint, if the board has reasonable cause to believe that the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq., or the rules promulgated pursuant thereto have been or are being violated, the Secretary of the Arkansas State Board of Acupuncture and Related Techniques shall:

(1) Log in the date of receipt of any complaint initiated by the board or any other party;

(2) Determine whether the respondent is:

(A) Licensed by the board to practice acupuncture and related techniques in the State of Arkansas; or

(B) An applicant for licensure;

(3)(A) Assign a complaint number and create an individual file.

(B) Complaint numbering shall begin with the last two (2) digits of the year in which the complaint is filed and shall then continue sequentially, ~~e.g.~~ for example, 11-001; and

(4) Within seven (7) working days of the date of receipt of the complaint, send written acknowledgment of receipt of the complaint to the complainant.

(b)(1) Furnish the respondent with a copy of the complaint and all documents filed in relation to the complaint by certified mail within seven (7) working days of the receipt of the complaint by the board.

(2) The respondent shall also be informed in writing at this time that the:

(A) Board has initiated an investigation into the complaint; and

(B) Respondent may furnish the board documents relevant to the complaint.

(c) Both parties shall refrain from contacting any member of the board:

(1) While the complaint is under investigation; and

(2) Until the matter has been resolved.

17 CAR § 170-404. Review of the complaint.

(a) The Arkansas State Board of Acupuncture and Related Techniques will review all written, signed complaints filed against a licensee or applicant.

(b) The respondent shall be:

(1) Provided at least twenty (20) calendar days in which to file a written response to the complaint; and

(2) Advised that he or she is required to provide all documents and exhibits in support of his or her position.

(c) If the board determines that further information is needed, it may issue subpoenas, or employ an investigator, experts, or other persons whose services are determined to be necessary in order to assist in the processing and investigation of the complaint.

(d)(1) Upon completion of the investigation, the board will prepare a written summary of its initial findings.

(2) The summary shall not identify any of the parties by name, but by case number only until the issue has been set for a hearing.

(3) The board shall provide a copy of its findings to the complainant and respondent prior to the matter being set for a hearing.

(e)(1) If the board determines that it does not have jurisdiction, or if it does have jurisdiction but finds that no violation exists, both the complainant and respondent will be notified in writing.

(2) The letter will explain why the case cannot be accepted for investigation ~~and/or~~ or action, ~~e.g.~~ for example, due to the statute of limitations, or the nature of the complaint being a fee dispute, or there being no violation of the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq., or this part, or it may note that the complaint can be referred to another agency.

(3) A letter from the board will be sent within thirty (30) days of the date of the board's decision to both the complainant and respondent.

(4) The letter will state the board's action and the reasons for its decision.

(5) The letter will be signed by the President of the Arkansas State Board of Acupuncture and Related Techniques.

17 CAR § 170-405. Hearing by the board.

(a)(1) Unless the Arkansas State Board of Acupuncture and Related Techniques dismisses the complaint pursuant to 17 CAR § 170-404(e), the complaint shall be set for a hearing before the full board.

(2) The matter shall be:

(A) Referred to only by the assigned case number; and

(B) Brought pursuant to the provisions of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(b)(1) The respondent shall be notified of the hearing at least thirty (30) days in advance of the date set for the hearing.

(2) The complainant shall also receive a copy of the notice of hearing.

(3) The notice of hearing shall set forth the charges and allegations against the respondent in sufficient detail so as to provide full disclosure and notice of all violations of the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq., and this part.

(c)(1) The respondent may file a response to the notice of hearing but is not required to do so.

(2) Any written response to the charges must be filed with the board ten (10) days in advance of the date set for the hearing on the complaint.

(d)(1) The respondent may waive a hearing on the notice and complaint.

(2) Such waiver of the right to a hearing must be:

(A) In writing;

(B) Signed by the respondent; and

(C) Filed with the board.

(e)(1) At any time the board may enter into a settlement agreement with the licensee as a means of resolving a complaint.

(2) Any proposed settlement agreement must be approved by the board upon a majority vote of those qualified to vote and must be approved further by the licensee or applicant upon a knowing and intentional waiver by the licensee or applicant of his or her right to a hearing.

(f) The board is empowered to issue subpoenas pursuant to Arkansas Code § 17-102-206(c) and § 17-80-102.

(g) The board may appoint an impartial hearing officer to preside at or assist the board in any hearing.

17 CAR § 170-406. Disciplinary proceedings.

(a)(1) The parties shall disclose to each other no later than ten (10) days before the hearing on the merits the names, addresses, and telephone numbers of all persons who they intend to call as witnesses at the hearing, and shall provide a list of exhibits that each intends to offer for introduction into evidence.

(2) If the opposing party is not in possession of a copy of any of the listed exhibits, the party that intends to offer the exhibits shall provide copies of all such exhibits at the time the written exhibit list is provided.

(b) The respondent shall not engage in communications with any member of the Arkansas State Board of Acupuncture and Related Techniques on any matter after a notice of hearing has been issued by the board, nor shall the board members engage in ex parte communications in violation of the:

(1) Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.; or

(2) Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

(c) At the hearing, each party shall be provided the opportunity to:

(1) Present evidence by testimony or by documents;

(2) Cross-examine witnesses; and

(3) Call witnesses.

(d)(1) Hearings before the board are governed by the Arkansas Administrative Procedure Act and shall not be bound by the Arkansas Rules of Evidence or the Arkansas Rules of Civil Procedure in its proceedings.

(2) However, the rules may serve as a guide to the presiding officer for the conduct of the hearing.

(3) The President of the Arkansas State Board of Acupuncture and Related Techniques or its duly appointed hearing officer shall rule on all motions as well as all evidentiary and procedural matters that arise during the hearing.

(e) When a licensee is found guilty of any of the acts set forth in the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq., a violation of any order of the board, or a violation of this part, the board may impose the following sanctions:

(1) Refuse to issue a license to the applicant;

(2) Revoke or suspend the license of the licensee;

(3) Restrict the practice of the licensee;

(4) Impose an administrative fine not to exceed five thousand dollars ($5,000) for each count or separate offense of which the licensee is found guilty;

(5) Reprimand the licensee; or

(6) Place the licensee on probation for such period of time as the board deems is appropriate and impose such conditions as the board may specify for the conduct of the licensee's practice.

(f)(1) In the event that the board revokes or suspends the license of an acupuncturist, the license shall not be reinstated until such time as the board is satisfied that the licensee:

(A) Has complied with all the terms and conditions set forth in the final disciplinary order of the board; and

(B) Is capable of safely and ethically engaging in the practice of acupuncture and related techniques.

(2) Upon written request by the licensee for reinstatement, the board shall review the case to determine whether a license should be reissued.

Subpart 5. Prohibited Acts — Action on License

17 CAR § 170-501. Prohibited acts and conduct of licensed professionals.

(a)(1) Any applicant for license renewal who provides the Arkansas State Board of Acupuncture and Related Techniques with false information or makes a false statement to the board with regard to any action or proceeding comprehended by the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq., or this part may be subject to disciplinary action, including denial, suspension, or revocation of licensure.

(2) Prior to the entry of a final order to suspend or revoke a license, or to impose other sanctions upon a licensee, the board will serve the licensee a complaint and notice hearing in writing.

(3) The licensee shall be afforded the opportunity for a hearing, and the board has the burden of proving the alleged facts and violations of law stated in the complaint.

(b) The following acts or omissions may be considered as grounds for disciplinary action by the board, following notice and hearing, or for the denial of application for licensure:

(1) **Professional incompetence.** Failure to possess or apply the knowledge or to use the skill and care ordinarily used by reasonably well-qualified acupuncturists practicing under similar circumstances, giving due consideration to the locality involved;

(2) **Failure to follow proper instrument sterilization procedure.**

(A) Failure to use sterile instruments or failure to follow proper instrument sterilization procedures, including the use of biological monitors and the keeping of accurate records of sterilization cycles and equipment service maintenance as described in the manufacturer's instruction manual and the current edition of the Clean Needle Technique Manual published by the National Certification ~~Commission~~ Board for Acupuncture and ~~Oriental~~ Herbal Medicine.

(B) This provision shall not apply to needles, which may not be reused or sterilized for a subsequent use on more than one (1) patient under any circumstances;

(3) **Failure to follow clean needle technique.** Failure to follow clean needle technique as defined in the current edition of the Clean Needle Technique Manual published by the National Certification ~~Commission~~ Board for Acupuncture and ~~Oriental~~ Herbal Medicine;

(4) **False reporting.** Willfully making or filing false reports or records in his or her practice as an acupuncturist or filing false statements for collection of fees for services that were not rendered;

(5) **Out-of-state disciplinary action.** Committing any act or omission that has resulted in disciplinary action against the acupuncturist or applicant by the acupuncture licensing or disciplinary authority or court in another:

(A) State;

(B) Territory; or

(C) Country;

(6) **Procuring license by bribery, fraud, or deceit.**

(A) Committing fraud or deceit in procuring or attempting to procure or renew a license or a provisional license to practice in the profession of acupuncture and related techniques by making false statements or providing false information on the application for licensure.

(B) An acupuncturist or an applicant shall be guilty of bribery if he or she attempts to pay money or provide anything of value to a member of the board in return for having a license issued;

(7) **Misrepresentation.** Advertising, practicing, or attempting to practice under a name other than one's own;

(8) **False advertising.**

(A) Soliciting or advertising for patronage by any means that is:

(i) Misleading;

(ii) Fraudulent;

(iii) Deceptive; or

(iv) Dishonest.

(B) It also constitutes false advertising for an acupuncturist to identify himself or herself as a doctor or physician;

(9) **Educational fraud.** Practicing fraud, deceit, gross negligence, or misconduct in the operation of an educational program in acupuncture and related techniques;

(10) **Failure to keep records.**

(A) Failure to keep written or electronic records reflecting the course of treatment of the patient.

(B) Records shall be:

(i) Kept for a period of no less than five (5) years; and

(ii) Subject to review by the board;

(11) **Failure to provide records to patient.** Failure to make available to a patient or client, upon request, copies of documents in the possession or under the control of the licensee that have been prepared for and paid for by the patient or client;

(12) **Breach of confidentiality.** Revealing personally identifiable facts, data, or information obtained in a professional capacity, without the prior consent of the patient or client, except as authorized or required by law;

(13) **Delegating responsibilities to unqualified persons.**

(A) Delegating professional responsibilities to a person when the acupuncturist delegating such responsibilities knows or has reason to know that the person is not qualified by education, by experience, or by licensure or certification to perform the responsibilities.

(B) Failure to exercise appropriate supervision over provisional licensees or students who are authorized to practice only under the supervision of the acupuncturist;

(14) **Exercising influence within a patient–doctor relationship for purposes of engaging a patient in sexual activity.** Exercising influence within a patient–doctor relationship for the purpose of engaging in sexual activity with a patient;

(15) **Lack of fitness to practice.** Continuing to practice and provide treatment for patients when the licensee has become:

(A) Mentally incompetent or unfit, or has become incompetent by reason of negligence, habits, or other related causes; or

(B) Habitually intemperate or addicted to the use of habit-forming drugs, illegal drugs, ~~and/or~~ or alcohol;

(16) **Insurance fraud.** Knowingly committing fraud or deceit in the filing of insurance forms, documents, or information pertaining to the health or welfare of a patient, or knowingly allowing an employee to file insurance forms, documents, or information pertaining to health or welfare benefits that are false;

(17) **Willful violations.** Willfully or repeatedly violating any of the provisions of the Arkansas Acupuncture Practices Act, any of the provisions of this part, or any lawful order of the board;

(18) **Posting of license.**

(A) An acupuncturist who has been licensed by this board shall post his or her license in a conspicuous location at his or her office or place of practice.

(B) Failure to post the license may be considered unprofessional conduct;

(19) **Public health and sanitation.**

(A) Failure to use only presterilized, disposable needles in the administration of acupuncture.

(B) Using staples in the practice of acupuncture.

(C) Failing to wash hands with soap and water or other disinfectants before handling needles and between treatments of different patients.

(D) Reusing the same needles on more than one (1) patient in the administration of acupuncture;

(20) **Crimes listed under Arkansas Code § 17-3-102.** Having pled guilty or nolo contendere to, or having been found guilty of, a crime listed in Arkansas Code § 17-3-102; and

(21) **Incompetence and unprofessional conduct.** The foregoing specifications of unprofessional conduct shall not be exclusive of the types of acts and omissions that may be found by the board to constitute incompetence or unprofessional conduct.

17 CAR § 170-502. Emergency action.

(a)(1) If the Arkansas State Board of Acupuncture and Related Techniques finds that the public health, safety, or welfare imperatively requires emergency action and incorporates that finding in its order, the board can summarily suspend, limit, or restrict a license.

(2) The notice requirement in 17 CAR § 170-405 does not apply and must not be construed to prevent a hearing at the earliest time practicable.

(b) **Emergency order.**

(1)(A) An emergency adjudicative order must contain findings that the public health, safety, and welfare imperatively require emergency action to be taken by the board.

(B) The written order must include notification of the date on which board proceedings are scheduled for completion.

(2) **Written notice.**

(A) The written emergency adjudicative order will be immediately delivered to persons who are required to comply with the order.

(B) One (1) or more of the following procedures will be used:

(i) Personal delivery;

(ii) Certified mail, return receipt requested, to the last address on file with the board;

(iii) First class mail to the last address on file with the board;

(iv)*(a)* Fax.

(b) Fax may be used as the sole method of delivery if the person required to comply with the order has:

(1) Filed a written request that board orders be sent by fax; and

(2) Provided a fax number for that purpose;

(v)*(a)* Oral notice.

(b) Unless the written emergency order is served by personal delivery on the same day that the order issues, the board shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order; or

(vi) Electronic mail (email) to the last known email address, with a request for an immediate acknowledgement of receipt by the persons.

(c) Unless otherwise provided by law, within ten (10) days after emergency action taken pursuant to subsection (a) of this section, the board must initiate a formal suspension or revocation proceeding.

17 CAR § 170-503. Voluntary surrender of license.

The licensee, in lieu of formal disciplinary proceedings, may offer to surrender his or her license, subject to the board's determination to accept the proffered surrender, rather than conducting a formal disciplinary proceeding.

17 CAR § 170-504. Reinstatement after suspension.

(a) An order suspending a license may provide that a person desiring reinstatement may file with the Arkansas State Board of Acupuncture and Related Techniques a verified petition requesting reinstatement.

(b) The petition for reinstatement must set out the following:

(1) That the individual has fully and promptly complied with the requirements of 17 CAR § 170-406(e) pertaining to the duty of a sanctioned professional;

(2) That the individual has refrained from practicing in this profession during the period of suspension;

(3) That the individual's license fee is current or has been tendered to the board; and

(4) That the individual has fully complied with the requirements imposed as conditions for reinstatement.

(c) Any knowing misstatement of fact may constitute grounds for denial or revocation of reinstatement.

(d) Failure to comply with the provisions of this part precludes consideration for reinstatement.

(e) No individual will be reinstated unless the board approves reinstatement by majority vote.

17 CAR § 170-505. Relicensure for revoked or surrendered license.

(a)(1) No individual who has had his or her license revoked or who has surrendered his or her license will be licensed, except on petition made to the Arkansas State Board of Acupuncture and Related Techniques.

(2) The petition for relicensure is not allowed until at least two (2) years after the revocation or surrender of license took effect.

(b) The applicant bears the burden of proof that he or she:

(1) Is rehabilitated following the revocation or surrender of his or her license;

(2) Can engage in the conduct authorized by the license without undue risk to the public health, safety, and welfare; and

(3) Is otherwise qualified for the license pursuant to the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq.

(c) The board may impose any appropriate conditions or limitations on a license to protect the public health, safety, and welfare.

(d) The board may require that the person seeking relicensure take the licensing examination.

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

SENATE BILL 137

By: Senator J. Boyd
By: Representative Achor

For An Act To Be Entitled

AN ACT TO PERMIT HEALTHCARE PROVIDERS TO MAINTAIN MEDICAL RECORDS IN AN ELECTRONIC FORMAT; AND FOR OTHER PURPOSES.

Subtitle

TO PERMIT HEALTHCARE PROVIDERS TO MAINTAIN MEDICAL RECORDS IN AN ELECTRONIC FORMAT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 9, Subchapter 1, is amended to add an additional section to read as follows:

20-9-106. Electronic medical records — Definitions.

(a) As used in this section:

(1) "Healthcare provider" means:

(A) An individual who is licensed, certified, or otherwise authorized by a licensing authority of this state to administer healthcare services in the ordinary course of his or her business or practice; or

(B) A healthcare facility including without limitation a hospital, pharmacy, long-term care facility, office of a healthcare professional, or a hospice facility;

(2) "Medical record" means a patient's health record, including without limitation evaluations, diagnoses, prognoses, laboratory reports, X-rays, prescriptions, and other technical information used in assessing the patient's condition, or the pertinent portion of the record relating to a specific condition or a summary of the record; and

(3) "Patient" means a person who has received healthcare services from a healthcare provider.

(b) Notwithstanding any other provision of the law to the contrary, a healthcare provider may, in its sole discretion, create, maintain, transmit, receive, and store medical records in an electronic format and may, in its sole discretion, temporarily or permanently convert records into an electronic format.

(c)(1) A healthcare provider is not required to maintain separate tangible copies of electronically stored medical records.

(2) However, the healthcare provider shall maintain electronically stored medical records in a legible and retrievable form, including adequate data backup.

(d) This section is subject to all applicable federal laws governing the security and confidentiality of a patient's personal health information.

(e) A tangible copy of a medical record reproduced from an electronically stored record shall be considered an original for purposes of providing copies to patients or other authorized parties and for introduction of the medical record into evidence in administrative or court proceedings.

(f)(1) Except as provided otherwise under federal law, upon receiving a request for a copy of a medical record from a patient or an authorized person, a healthcare provider shall provide copies of the medical record in either tangible or electronically stored form.

(2) Except as provided otherwise under federal law, if a healthcare provider is audited by a health benefit plan, a pharmacy benefit manager, or a third-party entity involved in health benefits, the auditor shall accept an electronic version of the medical record in lieu of a physical medical record.

(g) This section applies to psychiatric, psychological, or other mental health medical records of a patient.

APPROVED: 2/25/25