

## **Advisory Board on Acupuncture**

Board of Medicine  
Tuesday, February 6, 2013, 10:00 a.m.  
9960 Mayland Drive, Suite 201  
Richmond, Virginia  
Board Room 1

Call to Order – Elaine W. Komarow, L.Ac., Chair

Emergency Egress Procedures i

Roll Call-Beulah Archer

Approval of Minutes of October 3, 2012 1-4

Adoption of the Agenda

Public Comment on Agenda Items (15 minutes)

New Business

1. Legislative Report – Elaine Yeatts 5-12

2. Review of Regulatory Revisions – Elaine Yeatts 13-38

3. License Renewals Having NCCAOM Certification

Announcements

Next meeting date: June 5, 2013 @ 10:00 a.m.

Adjournment

ADVISORY BOARD ON ACUPUNCTURE  
MINUTES

Wednesday, October 3, 2012  
Perimeter Center  
9960 Mayland Drive  
Board Room 3, 2<sup>nd</sup> Floor  
Henrico, Virginia

The Advisory Board on Acupuncture met on Wednesday, October 3, 2012 at 10:00 a.m. at the Department of Health Professions at 9960 Mayland Drive, Henrico, VA 23233.

**MEMBERS PRESENT:** Elaine Komarow, L. Ac., Chair  
Lynn Almloff, L. Ac., Vice Chair  
Mari Eder  
Chheany Ung, MD

**MEMBERS ABSENT:** Floyd Herdrich, L. Ac.

**STAFF PRESENT:** William L. Harp, MD. Executive Director  
Alan Heaberlin, Deputy Executive Director-Licensing  
Elaine Yeatts, Senior Regulatory Analyst  
Beulah Baptist Archer, Licensing Specialist

**GUESTS PRESENT:** Matthew Stanley -ASVA  
Janet L. Borges - ASVA  
Paul Millea, MD – Virginia Medical Acupuncture Society

**CALL TO ORDER**

Ms. Komarow called the meeting to order.

**EMERGENCY EVACUATION PROCEDURES**

Dr. Harp announced the Emergency Egress Procedures

**ROLL CALL** - The roll was called and a quorum was declared.

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## **APPROVAL OF MINUTES FROM February 2, 2011**

Ms. Almloff moved to adopt the minutes of February 2, 2011. The motion was seconded and carried.

## **ADOPTION OF AGENDA**

Dr. Ccheany Ung moved to adopt the agenda. The motion was seconded and carried.

## **PUBLIC COMMENT ON AGENDA ITEMS**

Matthew Stanley stated that the Acupuncture Society of Virginia would have items prepared for submission for regulatory review.

### **New Business**

#### **1. Regulatory / Legislative Report –Elaine Yeatts**

Review of Legislation-2012 Session of the General Assembly

Ms. Yeatts informed the Advisory Board of legislative changes made during the 2012 Session of the General Assembly. No action was required. Additionally, Ms. Yeatts explained that a comprehensive review of the regulations for acupuncture should be conducted to determine if any regulations should be repealed. There will be a period for public comment.

Lynn Almloff requested information from Dr. Harp regarding a request from the February 2, 2011 meeting to obtain information about dry needling by chiropractors. Dr. Harp recalled for the Advisory that this issue had been on its October 2010 meeting for information. He also read the decision of the Board of Medicine from its October 2010 meeting on this matter. William Ward, DC, had presented to the Board which had opined that dry needling fell within the scope of practice for chiropractic. Dr. Harp provided information from Dr. Ward to the Advisory about the training developed for chiropractors who sought to do dry needling. He said there is a 12-14 hour weekend course for chiropractors that reviews and teaches anatomy, muscles, insertions, trigger points and needle angle. Chiropractors doing dry needling have patients sign a disclaimer that the myofascial treatment is not acupuncture.

#### **2. Regulatory Review for Graduates of Foreign Schools**

Elaine Komarow inquired whether professional certification by NCCAOM was sufficient to license acupuncturists in Virginia. She believed that accrediting agencies should opine in their reports if the applicant's level of education meets the requirements of the Virginia Regulations Governing the Practice of Licensed Acupuncturists required by the regulations.

Dr. Harp stated that it is sometimes difficult to determine how the credit hours in transcripts translate to clock hours referred to in the Board's regulations. He suggested changes to the application instruction sheet that would clearly indicate the Board's requirement for didactic

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educational hours and clinical hours, such that the applicant would know what they need to present to the Board.

### **3. Regulatory Review for Unlicensed Practice under Supervision**

Lynn Almloff inquired if current regulations provide for a unlicensed person to perform acupuncture under the supervision of a L.Ac. in Virginia.

Elaine Yeatts indicated there is no current language in the Regulations for unlicensed personnel. Delegation to an unlicensed person must be strictly for nondiscretionary tasks. In the training setting, it is the responsibility of the supervising licensee to ensure that the student is performing tasks for which he/she is trained, and that there is no risk to the public.

Dr. Harp stated that students should be under continuous supervision and that supervisors should be immediately available.

### **4. License Renewals Having NCCAOM Certification**

Concern was expressed that some acupuncturists might be renewing although their NCCAOM had expired. Lynn Almloff stated that perhaps attestation of continuing education might be a reasonable alternative to requiring current NCCAOM. Mari Eder asked to include this topic in the Regulatory Review.

Lynn Almloff motioned to draft the language for attestation of CE's at renewal. Dr. Ung seconded. Motion carried. Ms. Almloff will submit language for the regulatory review to try and effect this change.

### **5. Review of Applications- Alan Heaberlin**

Elaine Komarow motioned to table the review of applications for Licensed Acupuncturists until February 2013. Lynn Almloff seconded.

### **6. Meeting Calendar for 2013**

Dr. Harp reviewed the meeting calendar for 2013 with the Advisory Board. No action was required.

### **7. Election of Officers**

Lynn Almloff moved to nominate Elaine Komarow to serve as Chair.

Dr. Ung moved to nominate Lynn Almloff for Vice Chair. The motions were seconded and carried.

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## **8. Conflict of Interest Training**

Mr. Heaberlin provided instructions to the Advisory Board members regarding completion of the Conflict of Interest training.

## **ANNOUNCEMENTS**

Dr. Harp further introduced Alan Heaberlin, Licensing Supervisor, to the Advisory Board.

Mr. Heaberlin informed the Advisory Board that there are currently 445 licensed acupuncturists.

**NEXT SCHEDULED MEETING:** February 6, 2013

## **ADJOURNMENT**

Lynn Almloff motioned to adjourn the meeting of the Advisory Board on Acupuncture. Mari Eder seconded. Motion carried.

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Elaine W. Komarow, L.Ac., Chair

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William L. Harp, M.D., Executive Director

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Beulah Baptist Archer, Licensing Specialist

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# Report of the 2013 General Assembly

## Board of Medicine - Advisory Boards

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### **HB 1352 Health care records; increases maximum copying fee that a health provider may charge.**

*Chief patron:* Habeeb

*Summary as introduced:*

**Health care records; copying fees.** Increases the maximum fee that a health care provider may charge for retrieving, reviewing, and preparing copies of patient records in response to a subpoena duces tecum or a request by the patient, his attorney, or his executor or administrator. The maximum fee is raised from \$0.50 to \$0.75 per page for up to 50 pages and from \$0.25 to \$0.50 per page for documents in excess of 50 pages. The bill also raises the maximum search and handling fee from \$10 to \$20.

11/29/12 House: Referred to Committee for Courts of Justice

01/10/13 House: Assigned Courts sub: #2 Civil

01/21/13 House: Subcommittee failed to recommend reporting (3-Y 4-N)

01/23/13 House: Subcommittee recommends reporting with amendment(s) (5-Y 1-N)

### **HB 1422 Interchangeable biosimilar biological products; permits pharmacists to dispense.**

*Chief patron:* O'Bannon

*Summary as introduced:*

**Dispensing of interchangeable biosimilar biological products.** Permits pharmacists to dispense a biosimilar that has been licensed by the U.S. Food and Drug Administration as interchangeable with a prescribed biological product unless the prescriber indicates such substitution is not authorized or the patient insists on dispensing of the prescribed biological product. The bill requires any pharmacist who dispenses an interchangeable biosimilar to inform the patient prior to dispensing the biosimilar, provide notification of the substitution to the prescriber, and record the brand name or the product name and name of the manufacturer of the biosimilar on the record of dispensing and the prescription label.

01/21/13 House: Engrossed by House - floor substitute HB1422H1

01/22/13 House: Read third time and passed House (91-Y 6-N 1-A)

01/22/13 House: VOTE: PASSAGE (91-Y 6-N 1-A)

01/23/13 Senate: Referred to Committee on Education and Health

### **HB 1444 Medications; administration by certain employees or contract service providers.**

*Chief patron:* O'Bannon

*Summary as introduced:*

**Administration of medications by employees or contract service providers of providers licensed by the Department of Behavioral Health and Developmental Services.** Provides that employees of or persons providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may administer insulin, glucagon, and epinephrine in certain circumstances; provides protection from liability for certain acts related to such administration; and requires the Board of Nursing to promulgate regulations governing training in the administration of epinephrine by persons authorized to administer epinephrine.

01/22/13 House: Impact statement from DPB (HB1444E)  
01/22/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)  
01/23/13 Senate: Referred to Committee on Education and Health

**HB 1463 Tramadol; adds to list of Schedule IV controlled substances.**

*Chief patron:* Yost

*Summary as introduced:*

**Schedule IV controlled substances; tramadol.** Adds tramadol, an opiate painkiller, to the list of Schedule IV controlled substances.

12/28/12 House: Referred to Committee on Health, Welfare and Institutions  
01/07/13 House: Impact statement from VCSC (HB1463)  
01/11/13 House: Assigned HWI sub: #2  
01/24/13 House: Subcommittee recommends reporting with amendment(s) (7-Y 0-N)

**HB 1468 Public schools; possession & administration of epinephrine by employees of local governing bodies.**

*Chief patron:* Greason

*Summary as introduced:*

**Public schools; possession and administration of epinephrine.** Adds employees of local governing bodies and employees of local health departments to the lists of individuals who are permitted to possess and administer epinephrine and not be held liable for civil damages when certain conditions are met. The bill also requires local school boards to include in policies for the possession and administration of epinephrine a provision adding any employee of a local governing body or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to administer the drug to any student believed to be having an anaphylactic reaction.

**EMERGENCY**

01/23/13 House: Emergency clause added  
01/23/13 House: Engrossed by House as amended HB1468E  
01/24/13 House: Read third time and passed House BLOCK VOTE (99-Y 0-N)

**HB 1499 Emergency medical services personnel; administration of medications.**

*Chief patron:* Stolle

*Summary as introduced:*

**Administration of medications.** Clarifies the circumstances under which emergency medical services personnel may administer medications and provides that emergency medical services personnel may administer medications pursuant to an oral or written order or standing protocol.

01/22/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)  
01/23/13 Senate: Referred to Committee on Education and Health

**HB 1501 Pharmacy; collaborative agreements.**

*Chief patron:* O'Bannon

*Summary as introduced:*

**Pharmacy; collaborative agreements.** Clarifies parties with whom a pharmacist may enter into a collaborative

agreement; provides that a patient who does not wish to participate in a collaborative procedure must notify the prescriber of his decision; and provides that a prescriber may elect to have a patient not participate in a collaborative agreement by contacting the pharmacist or his designated alternative pharmacist or by documenting his decision on the patient's prescription. The bill also clarifies that collaborative agreements may be in writing or in electronic form.

01/24/13 House: Committee amendments agreed to  
01/24/13 House: Engrossed by House as amended HB1501E  
01/24/13 House: Printed as engrossed 13100522D-E  
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)

**HB 1516 Pharmacies; access to the Prescription Monitoring Program.**

*Chief patron:* Lewis

*Summary as introduced:*

**Pharmacies; access to the Prescription Monitoring Program.** Requires every pharmacy permitted by the Board of Pharmacy to ensure that at least one pharmacist who is physically present at the pharmacy shall have access to the Prescription Monitoring Program at all times.

01/03/13 House: Prefiled and ordered printed; offered 01/09/13 13102118D  
01/03/13 House: Referred to Committee on Health, Welfare and Institutions  
01/15/13 House: Assigned HWI sub: #1

**HB 1564 Drugs; administration by a person to a child in private school.**

*Chief patron:* Orrock

*Summary as introduced:*

**Administration of drugs; private schools, private nursery schools, and private preschools.** Provides that nothing shall prevent the administration of drugs by a person to a child in a private nursery school or preschool that is accredited by the Virginia Council for Private Education and exempt from licensure by the Board of Social Services, or in a private school that is accredited by the Virginia Council for Private Education in accordance with standards prescribed by the Board of Education, provided such person has completed an approved training program, obtained written authorization of the parent, and administers drugs dispensed from a pharmacy and maintained in the original labeled container only to the child identified on the prescription label and in accordance with the prescriber's instructions.

01/17/13 House: Read second time and engrossed  
01/18/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)  
01/21/13 Senate: Referred to Committee on Education and Health

**HB 1644 Birth control; definition.**

*Chief patron:* Watts

*Summary as introduced:*

**Birth control; definition.** Adds a definition of birth control. "Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. Birth control shall not be considered abortion for the purposes of Title 18.2.

01/07/13 House: Prefiled and ordered printed; offered 01/09/13 13101037D  
01/07/13 House: Referred to Committee for Courts of Justice

**HB 1666 Professional counselors; establishes minimum education requirements for licensure.**

*Chief patron:* Yost

*Summary as introduced:*

**Licensure of professional counselors.** Establishes minimum education requirements for licensure as a professional counselor and provides that an applicant must have received a master's degree from a program in which the primary emphasis is on preparation for the practice of counseling. The bill exempts individuals who meet all other requirements for licensure as a professional counselor related to coursework and completion of a supervised residency by July 1, 2017, from provisions related to completion of a graduate degree.

01/07/13 House: Referred to Committee on Health, Welfare and Institutions

01/11/13 House: Assigned HWI sub: #2

01/24/13 House: Subcommittee recommends reporting with amendment(s) (7-Y 0-N)

**HB 1672 Naloxone; administration by unlicensed individual in cases of opiate overdose.**

*Chief patron:* O'Bannon

*Summary as introduced:*

**Naloxone; administration in cases of opiate overdose.** Provides that nothing shall prohibit an unlicensed individual from administering naloxone to a person who is experiencing or is about to experience a life-threatening opiate overdose, provided the unlicensed individual has completed a training program approved by the Board of Health. The bill also requires the Board of Health and the Board of Pharmacy to work together with law-enforcement agencies to develop a pilot program for the training of law-enforcement personnel and provision of nasally administered naloxone to law-enforcement personnel for the purpose of enabling law-enforcement personnel to administer naloxone to persons experiencing opiate overdose and to work together with recovery support organizations and other stakeholders to develop a pilot program for the training of members of the public and provision of nasally administered naloxone to members of the public for the purpose of enabling members of the public who have received such training to administer naloxone to persons experiencing opiate overdose.

01/07/13 House: Referred to Committee on Health, Welfare and Institutions

01/11/13 House: Assigned HWI sub: #1

**HB 1702 Counseling, Board of; confirmation of appointments by General Assembly.**

*Chief patron:* Carr

*Summary as introduced:*

**Board of Counseling; confirmation of appointments by General Assembly.** Provides that all appointments to the Board of Counseling that are made by the Governor shall be subject to confirmation by the General Assembly.

01/08/13 House: Referred to Committee on Privileges and Elections

01/11/13 House: Assigned P & E sub: Appointments

01/11/13 House: Impact statement from DPB (HB1702)

01/24/13 House: Subcommittee recommends reporting (7-Y 0-N)

01/25/13 House: Reported from Privileges and Elections (22-Y 0-N)

**HB 1704 Prescription Monitoring Program; disclosure of information to local chief law enforcement officer.**

*Chief patron:* Stolle

*Summary as introduced:*

**Prescription Monitoring Program; disclosure of information to local law enforcement.** Adds an agent designated by the chief law-enforcement officer of any county or city to the list of individuals to whom the Department of Health

Professions must disclose information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber upon request.

01/22/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)

01/22/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

01/23/13 Senate: Constitutional reading dispensed

01/23/13 Senate: Referred to Committee on Education and Health

01/24/13 House: Impact statement from DPB (HB1704E)

**HB 1778 Mammography; provider must notify patient about dense breast tissue.**

*Chief patron:* Filler-Corn

*Summary as introduced:*

**Mammography results; information about dense breast tissue.** Clarifies the conditions under which a mammography services provider must notify a patient of dense breast tissue and adds language to the notice that must be sent to patients under the existing law.

01/24/13 House: Read second time

01/24/13 House: Committee substitute agreed to 13104024D-H1

01/24/13 House: Engrossed by House - committee substitute HB1778H1

01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)

01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

**HB 1791 Practitioners; suspension of license, etc., by health regulatory agency.**

*Chief patron:* Garrett

*Summary as introduced:*

**Suspension of license, registration or certificate by a health regulatory agency; practice pending appeal.** Prohibits a practitioner of the healing arts whose license, certificate, registration, or permit has been suspended or revoked by a health regulatory board from engaging in practice pending appeal of the board's order.

01/15/13 House: Referred to Committee for Courts of Justice

01/21/13 House: Subcommittee recommends reporting (8-Y 0-N)

01/22/13 House: Assigned Courts sub: #2 Civil

01/23/13 House: Reported from Courts of Justice (17-Y 0-N)

01/25/13 House: Read first time

**HB 1876 Sterilization operations; for persons capable of informed consent.**

*Chief patron:* McClellan

*Summary as introduced:*

**Sterilization operations for persons capable of informed consent.** Eliminates the requirement for a 30-day waiting period prior to a sterilization operation for persons who are over the age of 18 and capable of giving informed consent who have not previously become the natural or adoptive parent of a child.

01/08/13 House: Referred to Committee on Health, Welfare and Institutions

01/17/13 House: Reported from Health, Welfare and Institutions (21-Y 1-N)

01/17/13 House: Impact statement from DPB (HB1876)

01/18/13 House: Motion to rerefer to committee agreed to

01/18/13 House: Rereferred to Health, Welfare and Institutions

**HB 1933 Lyme disease; disclosure of information to patients.**

*Chief patron:* Comstock

*Summary as introduced:*

**Lyme disease; disclosure of information to patients.** Requires physicians to provide each patient for whom a test for the presence of Lyme disease is ordered with a notice about Lyme disease, about testing for Lyme disease, and about the need to contact his physician with questions or concerns about Lyme disease.

01/09/13 House: Prefiled and ordered printed; offered 01/09/13 13102771D

01/09/13 House: Referred to Committee on Health, Welfare and Institutions

01/14/13 House: Impact statement from DPB (HB1933)

01/15/13 House: Assigned HWI sub: #1

**HB 2120 Health care practitioner, licensed; procedure for physical evidence recovery kit examination.**

*Chief patron:* Herring

*Summary as introduced:*

**Individual incapable of making an informed decision; procedure for physical evidence recovery kit examination.** Provides that a licensed health care provider may perform a physical evidence recovery kit examination for a person who is believed to be the victim of a sexual assault and who is incapable of making an informed decision regarding consent to such examination when there is an immediate need to conduct the examination, no legally authorized representative is available to provide consent, and a capacity reviewer provides written certification that the person is incapable of providing informed consent and that the examination should be performed.

01/09/13 House: Referred to Committee on Health, Welfare and Institutions

01/15/13 House: Referred from Health, Welfare and Institutions

01/15/13 House: Referred to Committee for Courts of Justice

01/18/13 House: Impact statement from DPB (HB2120)

01/25/13 House: Assigned Courts sub: #1 Criminal

**HB 2136 Methasterone and prostanazol; added to list of Schedule III controlled substances.**

*Chief patron:* Hodges

*Summary as introduced:*

**Adding methasterone and prostanazol to Schedule III.** Adds methasterone and prostanazol to Schedule III.

01/22/13 House: Reported from Health, Welfare and Institutions (22-Y 0-N)

01/23/13 House: Read first time

01/24/13 House: Read second time and engrossed

01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)

01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

**HB 2161 Nurses; authority to possess and administer oxygen to treat emergency medical conditions.**

*Chief patron:* O'Bannon

*Summary as introduced:*

**Nurses; authority to possess and administer oxygen to treat emergency medical conditions.** Provides that a prescriber may authorize registered nurses and licensed practical nurses to possess oxygen for administration in treatment of emergency medical conditions.

01/22/13 House: Reported from Health, Welfare and Institutions (22-Y 0-N)  
01/23/13 House: Read first time  
01/24/13 House: Read second time and engrossed  
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)  
01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

**HB 2181 Medical equipment suppliers; delivery of sterile water and saline.**

*Chief patron:* Hodges

*Summary as introduced:*

**Medical equipment suppliers; delivery of sterile water and saline.** Adds sterile water and saline to the list of prescription drugs and devices that a permitted medical equipment supplier may receive, store, and distribute to a consumer.

01/22/13 House: Reported from Health, Welfare and Institutions (22-Y 0-N)  
01/23/13 House: Read first time  
01/24/13 House: Read second time and engrossed  
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)  
01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

**HB 2312 Pharmacies; clarifies definition of compounding, etc.**

*Chief patron:* Jones

*Summary as introduced:*

**Compounding pharmacies.** Clarifies the definition of "compounding" and adds a requirement for a current inspection report for registration or renewal of a registration for a nonresident pharmacy.

01/18/13 House: Presented and ordered printed 13103613D  
01/18/13 House: Referred to Committee on Health, Welfare and Institutions  
01/25/13 House: Impact statement from DPB (HB2312)

**HJ 571 JCHC; study of feasibility of developing program of trained primary care personnel.**

*Chief patron:* Hope

*Summary as introduced:*

**JCHC; study of the feasibility of developing a program of trained primary care personnel to extend the reach of primary care services and reduce health care costs in the Commonwealth; report.** Directs the Joint Commission on Health Care to study (i) the feasibility of developing and (ii) the potential impacts on access to and the quality and cost of health care resulting from implementation of a program whereby individuals are trained to provide primary health care services through telephone contacts and home visits, in accordance with standardized protocols and under the supervision of a licensed nurse or physician, using the Grande-Aides model or a similar program.

12/18/12 House: Prefiled and ordered printed; offered 01/09/13 13100760D  
12/18/12 House: Referred to Committee on Rules  
01/16/13 House: Assigned Rules sub: Studies

**SB 858 Surgical assistants and surgical technologists; licensure and certification by Board of Medicine.**

*Chief patron:* Blevins

*Summary as introduced:*

**Surgical technologists and surgical assistants.** Requires certification for surgical technologists and licensure for surgical assistants, and provides requirements for such certification and licensure. The bill creates the Advisory Board of Surgical Technology and Surgical Assisting to assist the Board of Medicine in the regulation of surgical technologists and surgical assistants.

01/03/13 Senate: Prefiled and ordered printed; offered 01/09/13 13101106D

01/03/13 Senate: Referred to Committee on Education and Health

01/09/13 Senate: Assigned Education sub: Health Professions

01/09/13 Senate: Impact statement from DPB (SB858)

**SB 898 Practitioners; Board of Medicine to revoke license of certain (Twomey bill).**

*Chief patron:* Reeves

*Summary as introduced:*

**Board of Medicine; license revocation (Twomey bill).** Makes it mandatory for the Board to revoke a license of a practitioner who engages in sexual contact with a patient under certain circumstances and provides that the person whose license has been revoked may not apply for reinstatement for five years. Under current law, revocation is at the Board's discretion and the person may apply for reinstatement after three years.

01/09/13 Senate: Assigned Education sub: Health Professions

01/24/13 Senate: Reported from Education and Health with substitute (15-Y 0-N)

01/24/13 Senate: Committee substitute printed 13103765D-S1

01/25/13 Senate: Constitutional reading dispensed (40-Y 0-N)

**SB 950 Practitioners of medicine, etc.; updates terminology in sections governing licensure, etc.**

*Chief patron:* Garrett

*Summary as introduced:*

**Practice of medicine and other healing arts.** Updates terminology in sections governing licensure of practitioners of the healing arts, provides for use of electronic communication, and eliminates the Psychiatric Advisory Board.

01/07/13 Senate: Referred to Committee on Education and Health

01/15/13 Senate: Assigned Education sub: Health Professions

01/24/13 Senate: Reported from Education and Health (15-Y 0-N)

01/25/13 Senate: Constitutional reading dispensed (40-Y 0-N)

**SB 1250 Prescription Monitoring Program; Board of Pharmacy to identify "drugs of concern".**

*Chief patron:* Puckett

*Summary as introduced:*

**Designation and reporting of drugs of concern.** Authorizes the Board of Pharmacy to identify "drugs of concern" and requires prescribers to report prescription drugs of concern to the Prescription Monitoring Program.

01/09/13 Senate: Presented and ordered printed 13103116D

01/09/13 Senate: Referred to Committee on Education and Health

01/15/13 Senate: Assigned Education sub: Health Care

## Notice of Periodic Review

### Board of Medicine

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine is conducting a periodic review of:

18VAC85-15	Regulations Governing Delegation to an Agency Subordinate
18VAC85-40	Regulations Governing the Practice of Respiratory Care
18VAC85-50	Regulations Governing the Practice of Physician Assistants
18VAC85-80	Regulations Governing the Licensure of Occupational Therapists
18VAC85-101	Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited
18VAC85-110	Regulations for Licensed Acupuncturists
18VAC85-120	Regulations Governing the Licensure of Athletic Trainers
18VAC85-130	Regulations Governing the Practice of Licensed Midwives

The review is part of the **Governor's Regulatory Reform Project with the goal of:**

- a. Repealing regulations that are unnecessary or no longer in use;
- b. Reducing unnecessary regulatory burdens on individuals, businesses, and other regulated groups; and
- c. Identifying statutes that require unnecessary or overly burdensome regulations.

Further, the Board is seeking comment on whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

**The comment period begins November 5, 2012 and ends on December 5, 2012.**

Comments may be submitted online to the Virginia Regulatory Town Hall at:

<http://www.townhall.virginia.gov/L/Forums.cfm>.

Comments may also be sent to Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233 or faxed to (804) 527-4434 or emailed to [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

Following the close of the public comment period, a report of the periodic review will be posted on the Town Hall and published in the Virginia Register of Regulations.

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Logged in: DHP

Agency

Department of Health Professions

Board

Board of Medicine

Chapter

Licensed Acupuncturists [18 VAC 85 - 110]

All good comments for this forum [Show Only Flagged](#)[Back to List of Comments](#)

Commenter: Janet L. Borges, MSTCM, L.Ac., Acupuncture Society of Virginia 11/29/12 3:49 pm

### Acupuncture Society of Virginia Public Comment on Periodic Review

The Acupuncture Society of Virginia (ASVA) is the professional membership organization of licensed acupuncturists (L.Ac.s) in Virginia. ASVA is dedicated to promoting the practice of acupuncture and Oriental medicine (AOM) within the Commonwealth.

Our mission is to uphold high professional ethics and standards by monitoring and supporting legislation regarding professional standards and public safety and to educate the general public regarding the nature and scope of acupuncture and Oriental medicine. To accomplish this mission, we support clinical research verifying the effectiveness of acupuncture and Oriental medicine. We also cooperate with national professional organizations and provide continuing education programs for licensed acupuncturists.

The following statement represents the position and public comment on the pending periodic review of the *Regulations Governing the Practice of Licensed Acupuncturists*. In the formulation of these comments, ASVA strived to address regulations that could meet the objectives prescribed by the Governor's regulatory reform initiative, while continuing to account for regulations that provide for the protection of the public's health, safety, and welfare.

#### **18VAC85-110-50. Educational requirements: graduates of approved institutions or programs in the United States.**

ASVA supports the existing regulations concerning educational requirements. However, it is necessary to update these requirements as the ACAOM program requirements have increased beyond the requirements currently contained within the regulations for individuals receiving acupuncture and Oriental medicine education after July 1, 1999. The current ACAOM requirements consist of a minimum of 1905 hours of entry-level acupuncture education to include at least 1,155 didactic hours and 660 clinical hours (<http://www.nccaom.org/~nccaom/wp-content/uploads/pdf/ACAOM%20Grad%20Hour%20Requirements.pdf>). Updated requirements could be added to the regulations following section C.

#### **18VAC85-110-60. Requirements of foreign graduates of nonaccredited educational programs in acupuncture and Oriental medicine.**

ASVA feels that section A of this regulation contains unnecessary and redundant language. Because ACAOM only accredits schools within the United States (<http://www.acaom.org/about/>) and there are no other board-approved accrediting agencies, the language "or Canada that is not accredited by ACAOM or any other board-approved accrediting agency" should be stricken. This provides an opportunity to make the regulation more concise and less confusing to potential graduates of foreign programs.

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**18VAC85-110-80. Examination requirements for licensure.**

ASVA recommends that requirement 2, "Passing the Practical Examination of Point Location Skills (PEPLS) test," be eliminated from the regulations. Point location examination is now part of the NCCAOM acupuncture examination. Therefore, the inclusion of this requirement within the regulations is redundant and unnecessary.

**18VAC85-110-90. Test of spoken English requirements.**

The test of spoken English requirements is an important factor in patient care and communications. However, after a review of other health professions regulated by the Board of Medicine, ASVA would like to note that no other profession has a similar section of regulations. This section of regulations should be reviewed for how it ensures the safety of patients in cases where an individual is referred to a licensed acupuncturist who does not speak the patient's language.

**18VAC85-110-100. General requirements.**

ASVA feels that the entire regulatory requirement contained in 18VAC85-110-100 should be repealed. The requirement for written documentation of or written recommendation to receive a diagnostic evaluation by physician is an unnecessary regulatory burden on licensed acupuncturists and their businesses, and is not necessary for the protection of public health, safety, or welfare.

Virginia residents often concurrently seek care with a licensed acupuncturist in addition to a licensed doctor of medicine and / or other healthcare professionals. A patient receiving a form that notes that the state requires them to be notified of a recommendation to receive diagnostic examination by another health professional undermines the professional credibility of licensed acupuncturists, who are well aware of the limitations of the acupuncture and Oriental medicine scope of practice and their responsibility to refer patients, as necessary, to other providers. Most insurance companies in Virginia do not currently cover acupuncture and acupuncture will not be included as an essential health benefit in Virginia. Acupuncture is an out of pocket expense for most individuals. Therefore, this regulation should be repealed to be consistent with consumer behavior, insurance coverage, and the requirements of surrounding states.

Surrounding states do not have any similar requirements for a referral or examination. States that previously have had this requirement have repealed it. The following surrounding states currently do not have this requirement: District of Columbia, Maryland, West Virginia, North Carolina, South Carolina, and Florida.

Individuals residing in localities near Virginia borders, especially those in northern Virginia, may be getting acupuncture in other states or jurisdictions (i.e. Maryland, District of Columbia) where they work. This requirement would therefore not apply to those individuals and is therefore not being applied equally to all Virginians. There have been no reported incidents of the lack of a medical examination requirement causing harm or endangering the health, safety, or welfare of these individuals.

**18VAC85-110-110. Limitation of titles.**

This section of regulation should be reviewed for possible amendments that would provide further clarity on the use of titles. In Virginia, the title "Lic.Ac." is no longer commonly used by licensed acupuncturists; and most, if not all licensed acupuncturists use the title "L.Ac." ASVA feels that the title "Lic.Ac." can be stricken from the regulation without burden on the profession.

Additionally, ASVA is concerned that the way this regulation is currently written would allow a licensed acupuncturist to use the title of "Dr." as there are other states (Florida, New Mexico, Rhode Island) that attribute the professional designation of doctor or physician to licensed

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acupuncturists, even though the acupuncturist has not obtained a clinical doctorate degree. ASVA proposes the addition of clarifying language so that the regulation would read, "and shall not use the terms "physician" or "doctor" in his name or practice unless he **holds a clinical doctorate or PhD and** simultaneously uses a clarifying title, initials, abbreviation or designation."

#### **18VAC85-110-130. Maintenance of patient records.**

ASVA notes that this regulation is not contained within the regulations governing any other health profession regulated by the Board of Medicine and therefore should be repealed.

#### **18VAC85-110-145. Registration for voluntary practice by out-of-state licensees.**

ASVA recommends the subdivision of this section and the addition of an exemption to this process for organizations such as Acupuncturists Without Borders that may provide services to the public voluntarily during a state of emergency as declared by the Governor, to assist in alleviating symptoms of trauma caused by damage, loss, hardship, or suffering caused thereby. The exemption would require that any participating acupuncturist be licensed in their state of residence and comply with all applicable Virginia laws, including the Virginia acupuncture scope of practice.

**Commenter:** Amara Franko Heller, Shen Dao Clinic \*

11/29/12 6:41 pm

#### **Review of State Acupuncture Regulations**

I support the comments of the ASVA. Particularly, section 18VAC85-110-100, regarding the requirement that all new patients must sign a form recommending that they see a physician, chiropractor, or osteopath if they have not brought written proof with them that they have recently seen such a provider. As acupuncturists, we are trained well and know when it is necessary to refer to other providers. Additionally, many patients come to acupuncturists for treatment when other methods have left them wanting, but rarely do they have written proof that they have seen such other providers.

**Commenter:** Jennifer Yeh, MSTCM, LAc./ Sacred Lotus Acupuncture, LLC \*

11/29/12 7:30 pm

#### **Periodic Review of State Acupuncture Regulations**

I support the comments of the ASVA and also second the opinion of Ms. Heller of Shen Dao Clinic with regards to section 18VAC85-110-100.

"I support the comments of the ASVA. Particularly, section 18VAC85-110-100, regarding the requirement that all new patients must sign a form recommending that they see a physician, chiropractor, or osteopath if they have not brought written proof with them that they have recently seen such a provider. As acupuncturists, we are trained well and know when it is necessary to refer to other providers. Additionally, many patients come to acupuncturists for treatment when other methods have left them wanting, but rarely do they have written proof that they have seen such other providers."

~ Heller, Shen Dao Clinic

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Commenter: Kathleen Fraser, White Lotus Acupuncture \*

11/29/12 7:35 pm

### Periodic Review of Acupuncture Regulations

I support the recommendations submitted by the Acupuncture Society of Virginia.

Commenter: Deborah Farley, Acupuncture Clinic of Richmond \*

11/29/12 7:57 pm

### Review of State Acupuncture Regulations

Commenter: Deborah Farley, Acupuncture Clinic of Richmond \*

11/29/12 8:58 pm

### Review of State Acupuncture Regulations

I support the statements submitted by ASVA for the review of state acupuncture regulations with **one exception.**

In section **8VAC85-110-110 Limitation of Titles**, second paragraph, last sentence "and shall not use the terms "physician or "doctor" in name or practice unless he holds a clinical doctorate or PHD and simultaneously uses a clarifying title, initials, abbreviation, or designation. **I do not agree with this statement.**

The statement, other states (Florida, Rhode Island, and New Mexico) attribute the professional designation of doctor or physician to licensed acupuncturists, even though the acupuncturist has not obtained a clinical doctorate degree. This statement infers that acupuncturists in this state are held to the same regulations as other states. **This inference is false.**

Florida acupuncturists use the title Doctor of Oriental Medicine or Physicians Assistant based on the scope of practice and duties performed. In Florida an acupuncturist is designated a Primary Care Physician because they perform basic routine medical screenings, order medical diagnostic and laboratory tests, and are covered by most insurance companies. They are not required to have a clinical doctorate of PhD but as a part of the bi annual licensing renewal process they are required to complete continuing education units in medical and diagnostic findings.

Therefore, I would like to see the statement holds a clinical doctorate or Phd not be considered in the regulations.

Commenter: Robert Hoffman \*

11/30/12 8:55 am

### about dry needling techniques without proper training

I attended the Kiiko Mastumoto acupuncture education training event in Columbia Md. in mid October. The president of the Maryland Acupuncture Society gave a lunchtime presentation and made the case of untrained physical therapists who are performing acupuncture services called "dry needling techniques" without proper training where patient injury has occurred in these events. I would urge the board to stay abreast of the option for physical therapists to perform acupuncture without proper training.

In short make the established rules for acupuncture licensure training should apply to physical therapists. I attended a school in Florida where the training and licensure requires 1800 hours of didactic hours along with 500 clinic hours. Currently the state of Virginia also requires N.C.C.A.O.M. license requirements as well. Ensuring the proper application and use of acupuncture services for the safety of the public is a reflection of the medical profession as a

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whole. Being proactive and protecting the public from harm the board should use it's regulatory power to enforce complete training for the application of acupuncture services within the physical therapy realm of it's jurisdiction.

**Commenter:** Linda Lloyd, L.Ac Acupuncture Center of Northern Virginia \*

11/30/12 11:57 am

### Review of State Acupuncture Regulations

I support the comments made on behalf of the Acupuncture Society of Virginia

**Commenter:** Beth Davis, L.Ac. \*

11/30/12 4:34 pm

### Support for ASVA Comments

**Commenter:** Beth Davis, L.Ac. \*

11/30/12 4:39 pm

### Support for ASVA Comments

I support the comments submitted by ASVA regarding regulatory reform. I would add the following. The section dealing with the sterility and disposal of needles should be amended to include not just needles but any device that breaks the skin. I have had patients report to me that their previous practitioner had used on them an unwrapped either plum blossom or seven star hammer that "was just laying on the desk" and then return that device to the desk, presumably to be used on another patient. Also, physical therapists should be required to clearly and prominently make clear that their dry needling is NOT acupuncture. Again, I have had patients who have received this treatment, who think they've had acupuncture.

**Commenter:** Arthur Fan, Virginia Institute of Traditional Chinese Medicine (VITCM) \*

12/1/12 6:43 pm

### Virginia Institute of TCM Public Comments on Periodic Review of State Acupuncture Regulations

VITCM supports the comments from Acupuncture Society of Virginia. In addition, VITCM's comments:

#### **18VAC85-110-50. Educational requirements: graduates of approved institutions or programs in the United States.**

VITCM supports the existing regulations concerning educational requirements. The regulation should update the requirements according to ACAOM, the national accreditation agency for acupuncture and Oriental medicine education.

#### **18VAC85-110-60. Requirements of foreign graduates of nonaccredited educational programs in acupuncture and Oriental medicine.**

should be replaced by "18VAC85-110-60. Requirements of foreign graduates in acupuncture and Oriental medicine".

The reason is ACAOM only accredits US schools. For those foreign graduates, as long as they pass NCCAOM examinations, Virginia State board should treat them equally to the students who graduated from the US schools accredited by ACAOM. NCCAOM has a very restrict procedure to evaluate/judge such foreign students, if they had equivalent education as (or higher than) ACAOM accredited schools in USA, they are allowed to take NCCAOM examinations and get the certificates. In the regulation doesn't need mention ".....from nonaccredited educational

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programs in acupuncture and Oriental medicine by ACAOM". VA regulation could match the regulations in neighbor States, such as Maryland.

**18VAC85-110-80. Examination requirements for licensure.**

VITCM recommends that requirement 2, "Passing the Practical Examination of Point Location Skills (PEPLS) test," be eliminated from the regulations. Point location examination is now part of the NCCAOM acupuncture examination. Therefore, the inclusion of this requirement within the regulations is redundant and unnecessary.

**18VAC85-110-90. Test of spoken English requirements.**

Not necessary to mention language requirements in VA "acupuncture" regulation, if this is not mentioned in other professions' regulation.

And, any healthcare provider (not limited to "acupuncturists") may treat the patients who only speak spanish, Chinese or Korean, or other languages, it is not necessary the "acupuncturists" should know all such languages, or English. If the provider's patients mostly from a spanish or Korean (or other) community, the regulation should not force the provider to speak English. Interpreter may be needed if the patient could not speak the language that the provider (please notes: this is not for acupuncture profession along) speaks.

**18VAC85-110-100. General requirements.**

VITCM strongly disagrees that the requirement for written documentation of or written recommendation to receive a diagnostic evaluation by physician, which is an unnecessary regulatory burden on both patients and "licensed acupuncturists" and their businesses, and is not necessary for the protection of public health, safety, or welfare.

Currently, unlike many years ago, "licensed acupuncturists" have enough education (and continue education) to know which patient needs additional information from a medical doctor or other healthcare providers. In most of cases, let patient get a diagnose from other doctors, causing patient spend additional time, money and efforts. From a feasible rule, we hope delete such requirement. Many other States already removed such unfeasible requirement for many years.

Virginia residents often concurrently seek care with a licensed acupuncturist in addition to a licensed doctor of medicine and / or other healthcare professionals. A patient receiving a form that notes that the state requires them to be notified of a recommendation to receive diagnostic examination by another health professional undermines the professional credibility of licensed acupuncturists, who are well aware of the limitations of the acupuncture and Oriental medicine scope of practice and their responsibility to refer patients, as necessary, to other providers. Most Insurance companies in Virginia do not currently cover acupuncture and acupuncture will not be included as an essential health benefit in Virginia. Acupuncture is an out of pocket expense for most individuals. Therefore, this regulation should be repealed to be consistent with consumer behavior, insurance coverage, and the requirements of surrounding states.

Many patients residing in localities near Virginia borders, especially those in northern Virginia, may be getting acupuncture in other states or jurisdictions (i.e. Maryland, District of Columbia) where they work. This requirement would therefore not apply to those individuals and is therefore not being applied equally to all Virginians. There have been no reported incidents of the lack of a medical examination requirement causing harm or endangering the health, safety, or welfare of these individuals.

**18VAC85-110-110. Limitation of titles.**

This section of regulation should be reviewed for possible amendments that would provide further clarity on the use of titles. In Virginia, the title "Lic.Ac." is no longer commonly used by licensed acupuncturists; and most, if not all licensed acupuncturists use the title "L.Ac." VITCM feels that the title "Lic.Ac." can be stricken from the regulation without burden on the profession. VITCM suggests the regulation use the title of OMD (Doctor in Oriental Medicine) to replace " Lic.Ac.", which indicates the provider is for practicing Oriental medicine, includes in the evaluation/ diagnose procedure of Oriental medicine, and application of the therapies of acupuncture, Chinese herbology, dietary therapy, Tuina/Chinese therapeutic massage and Qigong, Taichi and other mind-body adjustments.

The regulation should allow a "licensed acupuncturist" to use the title of "Dr." as there are other states (Florida, New Mexico, Rhode Island, Nevada, etc.) that attribute the professional designation of doctor or physician to licensed acupuncturists, even though the "acupuncturist" has not obtained a clinical doctorate degree. As a provider in Complementary and Alternative medicine (CAM), in real clinical practice, patients treat "Lic.Ac." as a doctor.

**18VAC85-110-130. Maintenance of patient records.**

VITCM notes that this regulation is not contained within the regulations governing any other health profession regulated by the Board of Medicine and therefore should be repealed.

**Commenter:** Arthur Fan, Virginia Institute of Traditional Chinese Medicine (VITCM) \*

12/1/12 7:01 pm

**Dry needle issue**

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1. According to the history of Acupuncture, dry needling technique is the other name of Acupuncture;

2. Based on the real practice of Physical Therapist(PT) who uses so called "Dry Needling Technique", actually use acupuncture needle, and use one of acupuncture methods, the Ashi points acupuncture/needling. PT uses another "language" to replace the description in acupuncture book, to legalizing their practice of Acupuncture(using the term of "Dry Needling Technique" and description it with other medical terms and adding their own history of development of such technique ). VITCM strongly hope board ask them to get enough training and education. Currently, our profession (Acupuncture and Oriental Medicine) needs 2000 hours (or more than that) training, MDs or DCs who practice acupuncture need 300 or more hours additional training. PT practicing so called Dry needling technique with less than 300 hours training is not acceptable.

**Commenter:** Deann F. Bishop, L.Ac. \*

12/1/12 7:21 pm

### **Support for ASVA comments**

I support ASVA's comments.

**Commenter:** Jody Forman, MSW, L.Ac., PLLC. \*

12/2/12 8:54 pm

### **Periodic Review of Acupuncture Regulations**

**I agree with all of the comments submitted by Janet L. Borges, MSTCM, L.Ac., on behalf of the Acupuncture Society of Virginia.**

I offer the following two comments:

**Regarding 18VAC85-110-90, Test of Spoken English requirements:** While I agree that such a requirement need not be enshrined in the regulations of the Code of Virginia, it is still worthwhile that all practitioners have a basic facility with the English language in order to understand what is required by government entities and what is asked by professional organizations.

**18VAC85-110-100-General requirements:** Documentation of a diagnostic evaluation by a physician was inserted into the regulations at a time when the practice of acupuncture in the Commonwealth was very new. Some in the medical profession who served on the VA Board of Medicine did not yet trust the acupuncture profession to know when to refer to a medical physician. The language used by New York State (and long since repealed there) was adopted to assuage these concerns. After almost 20 years, it is clear that the language is no longer necessary as there have been no cases of problems arising from physician/acupuncturist referrals.

**Commenter:** Marilyn Hyde, L.Ac., Marilyn Hyde Acupuncture \*

12/3/12 8:00 am

### **Review of State Acupuncture Regulations**

**Commenter:** Jinhu Tang, Tang Acupuncture LLC \*

12/3/12 2:13 pm

**The review of the regulations for Licensed Acupuncturists**

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I strongly support ASVA's comments.

**Commenter:** Elaine Wolf Komarow, LAc \*

12/3/12 3:26 pm

**Periodic review of Acupuncture Regulations**

Regarding 18 VAC85-110-80 -- Obtaining Diplomate status from NCCAOM now requires a variety of exams, somewhat dependent on the type of certification sought. It is unclear from the current language which exams would count as the comprehensive written examination. I believe the language should be revised to clarify which exam modules must be passed.

Regarding 18 VAC85-110-150 -- Requiring current active NCCAOM status adds both a financial and time burden to ongoing practice in Virginia. Only one other profession requires ongoing approval by a third party, outside of state control, to maintain licensure. It would ease the regulatory and financial burden to replace this requirement with a simple requirement for continuing education, the amount and type of which could be set by the board. This would bring these regulations in line with other professions.

**Commenter:** Kyung Lee, L.Ac., MAc.O.M. \*

12/3/12 3:28 pm

**Review so state acupuncture regulations**

I strongly support the comments of the ASVA.

**Commenter:** Hon K. Lee, L.Ac, Dipl.OM, Sports Edge Acupuncture, LLC \*

12/3/12 3:28 pm

**Review of the regulations for Licensed Acupuncturists**

I strongly support the ASVA's position.

**Commenter:** Peter Liebenthal L.Ac. \*

12/3/12 4:50 pm

**support for the comments of the Acupuncture Society of Virginia**

I agree with the comments of the Acupuncture Society of Virginia.

**Commenter:** Rachal Lohr Dean, South Riding Acupuncture \*

12/3/12 6:04 pm

**Dry needling**

**Dry needle issue**

1. According to the history of Acupuncture, dry needling technique is the other name of Acupuncture;
2. Based on the real practice of Physical Therapist(PT) who uses so called "Dry Needling Technique", actually use acupuncture needles, and use one of acupuncture and chinese medicines own methods, the Ashi points acupuncture/needling, or motor point needling. PT's uses another "language" to replace the discription in acupuncture books, to legalizing their practice of Acupuncture(using the term of "Dry Needling Technique" and description it with other medical

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terms and adding their own history of development of such technique, but these techniques are not different or new). I strongly hope the board requires them to get enough training and education. Currently, our profession (Acupuncture and Oriental Medicine) needs 2000 hours (or more than that) training, MDs or DCs who practice acupuncture need at least 300 or more hours additional training. PT practicing so called Dry needling technique with less than 300 hours training is not acceptable. There are more injuries due to this inexperience and new dry needling practice and because of that injures our own profession.

**Commenter:** Marilyn Hyde, L.Ac., Marilyn Hyde Acupuncture \*

12/3/12 7:46 pm

**Periodic review of State Acupuncture Regulations**

I support the position of the Acupuncture Society of Virginia.

**Commenter:** Jefferson Lee, L.Ac. \*

12/3/12 11:59 pm

**Town Hall User Policy**

**Commenter:** Jefferson Lee \*

12/4/12 12:03 am

**Review of State Acupuncture Regulations**

**Commenter:** Nathalie Depastas, McLean Acupuncture and Shiatsu \*

12/4/12 12:56 am

**I support ASVA comments for regulation update 2012**

**Commenter:** Kim Nguyen, L.Ac., East West Medicine \*

12/4/12 9:39 am

**Review of Acupuncture Regulations**

I support the views and comments of ASVA

**Commenter:** D. Michael Denbow, L.Ac. \*

12/4/12 1:34 pm

**Review of State Acupuncture Regulations**

I support the comments made on behalf of the Acupuncture Society of Virginia.

**Commenter:** Dianna Sicilia MS LAc, Sapphire Naturals \*

12/4/12 2:52 pm

**General Requirement of Written Documentation, Maintenance of Patient Records, and Dry Needling**

**I strongly support recommendations of the Acupuncture Society of Virginia.**

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**18VAC85-110-100. General requirements.**

I strongly disagree with the requirement for a written documentation of or a written recommendation to receive a diagnostic evaluation by physician. This is an unnecessary regulatory burden on both patients and licensed acupuncturists. It is not necessary for the protection of public health, safety, or welfare.

Virginia residents often concurrently seek care with a licensed acupuncturist in addition to a licensed doctor of medicine and / or other healthcare professionals. A patient receiving a form that notes that the state requires them to be notified of a recommendation to receive diagnostic examination by another health professional undermines the professional credibility of licensed acupuncturists, who are well aware of the limitations of the acupuncture and Oriental medicine scope of practice and their responsibility to refer patients, as necessary, to other providers. Most Insurance companies in Virginia do not currently cover acupuncture and acupuncture will not be included as an essential health benefit in Virginia. Acupuncture is an out of pocket expense for most individuals. Therefore, this regulation should be repealed to be consistent with consumer behavior, insurance coverage, and the requirements of surrounding states.

Many patients residing in localities near Virginia borders, especially those in northern Virginia, may be getting acupuncture in other states or jurisdictions (i.e. Maryland, District of Columbia) where they work. This requirement would therefore not apply to those individuals and is therefore not being applied equally to all Virginians. There have been no reported incidents of the lack of a medical examination requirement causing harm or endangering the health, safety, or welfare of these individuals.

**18VAC85-110-130. Maintenance of patient records.**

This regulation is not contained within the regulations governing any other health profession regulated by the Board of Medicine and therefore should be repealed.

**Dry needle issue**

1. According to the history of Acupuncture, dry needling technique is the other name of Acupuncture;
2. Based on the real practice of Physical Therapist(PT) who uses so called "Dry Needling Technique", actually use acupuncture needles, and use one of acupuncture and chinese medicines own methods, the Ashi points acupuncture/needling, or motor point needling. PT's uses another "language" to replace the discription in acupuncture books, to legalizing their practice of Acupuncture(using the term of "Dry Needling Technique" and description it with other medical terms and adding their own history of development of such technique, but these techniques are not different or new). I strongly hope the board requires them to get enough training and education. Currently, our profession (Acupuncture and Oriental Medicine) needs 2000 hours (or more than that) training, MDs or DCs who practice acupuncture need at least 300 or more hours additional training. PT practicing so called Dry needling technique with less than 300 hours training is not acceptable. There are more injuries due to this inexperience and new dry needling practice and because of that injures our own profession.

**Thank you for your consideration of these recommendations.**

**Commenter:** Satori Poch, L.Ac. \*

12/4/12 4:17 pm

**In support of ASVA comments**

I strongly support the comments made by Janet Borges of ASVA.

**Commenter:** Deborah L. Godwin L.Ac, M.Ac, Depl.Ac, C.M.T., QITender Acupuncture \*

12/5/12 10:40 am

**Review of State Acupuncture Regulations**

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Commenter: Carol Whitmire, Needles, Inc \*

12/5/12 11:49 am

**Supporting ASVA**

I support ASVA's position on regulations for Acupuncturists

Commenter: Ming Su, L.A. Community Health Acupuncture clinic \*

12/5/12 1:03 pm

**I support the comments by ASVA.**

Commenter: Sarah Shupe, ASVA \*

12/5/12 1:57 pm

**I support ASVA**

Hello,

My name is Sarah Shupe and I am a licensed acupuncturist working in Northern VA. I fully support ASVA's position on the review of state acupuncture regulations.

Thanks for you time,

Sarah Shupe L.Ac.

703-217-7124

Commenter: Stephanie Simmons, Classical Acupuncture Assocs, LLC \*

12/5/12 8:06 pm

**support Acupuncture Society of Virginia's position on regulations**

Commenter: Hea-won Jin \*

12/5/12 8:39 pm

**periodic review of state acupuncture regulations**

Commenter: Janet L. Borges, MSTCM, L.Ac., Legislative Liason, ASVA \*

12/5/12 9:15 pm

**Review of State Acupuncture Regulations, NCCAOM Recertification Requirement**

Regarding 18 VAC85-110-150, requiring licensed acupuncturists to maintain active NCCAOM certification in order to continue to practice in VA: It is the position of the Acupuncture Society of Virginia (ASVA) that this requirement does not cause burden to the profession. States that require NCCAOM certification put the cost and responsibility of ensuring competency maintenance for licensed acupunctuists on the NCCAOM. If this requirement were eliminated, it would put the burden for ensuring competency and verifying continuing education requirements on the VA Board of Medicine. ASVA believes that maintenance of NCCAOM certification provides protection to the public, and that the requirement should be retained in its current form.

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### Review of State Acupuncture Regulations, NCCAOM Recertification Requirement

As a Virginia citizen, acupuncture consumer and the Deputy Director of the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM), I would like to express my support for maintaining 18 VAC85-110-150, which requires licensed acupuncturists to maintain active NCCAOM certification in order to continue to practice in Virginia. *The mission of the NCCAOM is to establish, assess, and promote recognized standards of competence and safety in acupuncture and Oriental medicine for the protection and benefit of the public.* It is with this mission that the NCCAOM sets national standards for maintaining continued competency in the field of acupuncture and Oriental medicine. States that require active NCCAOM certification, can be reassured that every practitioner has meet NCCAOM's robust professional development activity (PDA) program requirements which includes completing safety/ethics courses as well as documenting of CPR course certificate. States who require NCCAOM active certification place the burden and cost of recertification verification and professional development activity program development to the NCCAOM. Therefore, this requirement does **not** cause burden to the state or the profession.

Most importantly, the NCCAOM also oversees the practice of the acupuncture and Oriental profession as stated in our mission through its Professional Ethics and Disciplinary Review process. NCCAOM partners with states that require active certification to ensure that practitioners who have violated the NCCAOM Code of Ethics and have been disciplined are prevented from obtaining a license in those states. States such as Virginia that require active certification have the reassurance that disciplined practitioners will not go undetected through the requirement of active certification. A recent example took place this year when a practitioner in California whose certification was revoked moved to the state of Virginia and the state was immediately informed by the NCCAOM that his certification was revoked due to fraud. This person was prevented from practicing acupuncture in Virginia and causing harm to consumers.

The trend in healthcare throughout the nation is to raise standards for licensure, not to lower or eliminate them. States are increasing their requirements for certification maintenance as these changes are based on the premise of improving the quality of healthcare for the citizens of these states. The NCCAOM is proud of its reputation and recognizes the value of our nationally recognized status. The unprecedented growth and acceptance of acupuncture is due in no small part to the existence of a legitimate certification and professional development activity program based upon national standards.

As a citizen of this great state, I strongly believe that the requirement for the maintenance of NCCAOM certification for licensed acupuncturists provides protection to the consumers of this state. It would be a step backwards as well as potential harm to the public to change this requirement.

\* Nonregistered public user

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*Commonwealth of Virginia*



# REGULATIONS

## GOVERNING THE PRACTICE OF LICENSED ACUPUNCTURISTS

### VIRGINIA BOARD OF MEDICINE

**Title of Regulations: 18 VAC 85-110-10 et seq.**

**Statutory Authority: § 54.1-2400 and Chapter 29  
of Title 54.1 of the *Code of Virginia***

**Periodic review – Regulatory Reform Project**

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## **Part I. General Provisions.**

### **18VAC85-110-10. Definitions.**

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in §54.1-2900 of the Code of Virginia.

Acupuncturist

Board

Licensed acupuncturist

Practice of acupuncture

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"ACAOM" means the Accreditation Commission for Acupuncture and Oriental Medicine. ACAOM replaces the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

"CCAOM" means the Council of Colleges of Acupuncture and Oriental Medicine.

"CNT course" means a Clean Needle Technique Course as administered by the CCAOM.

"NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine.

### **18VAC85-110-20. Public participation.**

A separate board regulation, 18VAC85-10-10 et seq., provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine.

### **18VAC85-110-30. [Repealed]**

### **18VAC85-110-35. Fees.**

Unless otherwise provided, the following fees shall not be refundable:

1. The application fee for a license to practice as an acupuncturist shall be \$130.
2. The fee for biennial active license renewal shall be \$135; the fee for biennial inactive license renewal shall be \$70.
3. The additional fee for processing a late renewal within one renewal cycle shall be \$50.
4. The fee for reinstatement of a license which has expired for two or more years shall be \$180.

5. The fee for a letter of good standing/verification of a license to another jurisdiction shall be \$10.
6. The fee for reinstatement of a license pursuant to §54.1-2408.2 of the Code of Virginia shall be \$2,000.
7. The fee for a duplicate wall certificate shall be \$15.
8. The fee for a duplicate renewal license shall be \$5.
9. The fee for a returned check shall be \$35.
10. The fee for an application or for the biennial renewal of a restricted volunteer license shall be \$35, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$15 for each renewal cycle.

**18VAC85-110-36. Current name and address.**

Each licensee shall furnish the board his current name and address of record. All notices required by law or by this chapter given by the board to any such licensee shall be validly given when mailed to the latest address of record provided or served to the licensee. Any change of name or address of record or the public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

**Part II. Requirements for Licensure.**

**18VAC85-110-40. [Repealed]**

**18VAC85-110-50. Educational requirements: graduates of approved institutions or programs in the United States.**

A. Requirements for acupuncture education obtained prior to July 1, 1990, shall be as provided in this subsection.

1. An applicant applying for licensure to practice as an acupuncturist on the basis of successful completion of education in a school or college of acupuncture accredited by the ACAOM or other accrediting agencies approved by the Board of Medicine, which confers a degree or certificate in acupuncture in the United States, shall submit evidence of successful completion of an acupuncture course of study in an accredited school or college for acupuncture, providing evidence of not less than 1,000 hours of schooling in not less than a continuous 18-month period.

2. The studies shall include not less than 700 didactic hours and not less than 250 clinical hours. Additional hours may be in either didactic or clinical hours based upon the school or college curriculum.

B. Requirements for acupuncture education obtained after July 1, 1990, shall be as provided in this subsection.

An applicant applying for licensure to practice as a licensed acupuncturist on the basis of successful completion of education in a school or college for acupuncture accredited by ACAOM or any other accrediting agency approved by the Board of Medicine, which confers a degree or certificate in acupuncture in the United States, shall submit evidence of having a minimum of three academic years in length equivalent to 90 semester credit hours or 135 quarter credit hours.

One academic year means full-time study completed in ~~three~~ four quarters, two semesters, or three trimesters. A full-time continuous study program shall be a concentrated educational process in acupuncture which requires individual study with assigned materials in a classroom or clinical setting.

C. Requirements for acupuncture education obtained after July 1, 1999, shall be as provided in this subsection. An applicant applying for licensure to practice as a licensed acupuncturist on the basis of successful completion of education in a school or college for acupuncture accredited by ACAOM or any other accrediting agency approved by the Board of Medicine, which confers a degree or certificate in acupuncture in the United States, shall submit evidence of having a minimum of 1,725 hours of entry-level acupuncture education to include at least 1,000 didactic hours and 500 clinical hours. Clinical hours may include observation, as well as internship or treatment hours; the remaining 225 hours may be earned as either didactic or clinical. Correspondence programs or courses in acupuncture are excluded and do not meet the requirements for acupuncture education.

D. An applicant from an acupuncture program in a school or college that has achieved candidacy status for accreditation by ACAOM shall be eligible for licensure provided the program has subsequently been granted accreditation within three years of the applicant's graduation.

**18VAC85-110-60. Requirements of foreign graduates of nonaccredited educational programs in acupuncture.**

A. An applicant who has completed an educational course of study in a school or college outside the United States or Canada that is not accredited by ACAOM or any other board-approved accrediting agency shall:

1. Submit a transcript from his educational course of study in acupuncture to a credential evaluation service approved by the board to determine equivalency in education and training to that required in 18VAC85-110-50.

2. Meet the examination requirements as prescribed in 18VAC85-110-80 and 18VAC85-110-90.

B. All documents submitted to the board which are not in English must be translated into English and certified by the embassy of the issuing government or by a translating service.

**18VAC85-110-70. [Repealed]**

**18VAC85-110-80. Examination requirements for licensure.**

The examination requirements for licensure shall consist of:

1. Passing the NCCAOM comprehensive written examination, resulting in current, active certification by the NCCAOM at the time the application is filed with the board;
2. Passing the Practical Examination of Point Location Skills (PEPLS) test; and
3. Completing the CNT course as administered by the CCAOM.

**18VAC85-110-90. Test of spoken English requirements.**

A. An applicant applying for licensure to practice as an acupuncturist whose native language is not English and whose acupuncture education was also not in English shall submit evidence of having achieved a passing score as acceptable to the board on either the Test of Spoken English (TSE) or the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Services.

B. An applicant applying for licensure to practice as an acupuncturist whose native language is not English and whose acupuncture education was also not in English shall be exempt from the requirement for TSE or TOEFL if the majority of his clients speak the language of the acupuncturist.

**Part III. Scope of Practice.**

**18VAC85-110-100. General requirements.**

Prior to performing acupuncture, a licensed acupuncturist shall obtain written documentation that the patient has received a diagnostic examination for the ailment or condition to be treated within the past six months by a licensed doctor of medicine, osteopathy, chiropractic, or podiatry acting within the scope of his practice or shall provide to the patient a written recommendation for such a diagnostic examination on a form specified by the board and signed by the patient. The original of the signed form shall be maintained in the patient's chart and a copy provided to the patient.

**18VAC85-110-110. Limitation of titles.**

A person practicing as a licensed acupuncturist is restricted to the use of the titles "Lic.Ac." or "L.Ac." and shall not use the terms "physician" or "doctor" in his name or practice unless he simultaneously uses a clarifying title, initials, abbreviation or designation or language.

**18VAC85-110-120. [Repealed]**

**18VAC85-110-130. Maintenance of patient records. (Repealed).**

~~A licensed acupuncturist shall maintain records of his diagnosis and treatment, and the patient's response to acupuncture and shall submit records to the board upon request, unless release of subject records is otherwise prohibited by law. Failure to maintain patient records of those patients treated with acupuncture or failure to respond to the board's request for patient records within 30 days shall be grounds for suspension or revocation of a license to practice acupuncture.~~

**18VAC85-110-140. Sterilization practices and infection control.**

Acupuncture needles shall be presterilized, prewrapped, disposable needles, for the prevention of infection, to protect the health, safety, and welfare of the patient. Such needles shall be discarded after each patient treatment.

**18VAC85-110-145. Registration for voluntary practice by out-of-state licensees.**

Any licensed acupuncturist who does not hold a license to practice in Virginia and who seeks registration to practice under subdivision 27 of §54.1-2901 of the Code of Virginia on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File a complete application for registration on a form provided by the board at least five business days prior to engaging in such practice. An incomplete application will not be considered;
2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;
3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;
4. Pay a registration fee of \$10; and
5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 27 of §54.1-2901 of the Code of Virginia.

**Part IV. Renewal and Reinstatement of Licensure.**

**18VAC85-110-150. Biennial renewal of licensure.**

A. A licensed acupuncturist shall renew his license biennially during his birth month in each odd-numbered year by:

1. Paying to the board the renewal fee as prescribed in subdivision 2 of 18VAC85-110-35; and
2. **Attesting to having current, active certification by the NCCAOM. [DISCUSS]**

B. A licensed acupuncturist whose license has not been renewed by the first day of the month following the month in which renewal is required shall not be licensed in Virginia.

C. An additional fee to cover administrative costs for processing a late application renewal shall be imposed by the board as prescribed by subdivision 3 of 18VAC85-110-35.

**18VAC85-110-155. Inactive licensure.**

A. A licensed acupuncturist who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required fee, be issued an inactive license.

1. The holder of an inactive license shall not be required to maintain current, active certification by the NCCAOM.
2. An inactive licensee shall not be entitled to perform any act requiring a license to practice acupuncture in Virginia.

B. An inactive licensee may reactivate his license by:

1. Submission of the required application;
2. Payment of the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure for the biennium in which the license is being reactivated; and
3. Submission of documentation of having maintained current certification or having been recertified by the NCCAOM.

C. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of §54.1-2915 of the Code of Virginia or any provisions of this chapter.

**18VAC85-110-160. Reinstatement.**

A. A licensed acupuncturist who allows his license to lapse for a period of two years or more and chooses to resume his practice shall submit to the board a reinstatement application, information on practice and licensure in other jurisdictions for the period in which the license was lapsed in Virginia, proof of current, active certification by the NCCAOM, and the fee for reinstatement of his license as prescribed in subdivision 4 of 18VAC85-110-35.

B. A licensed acupuncturist whose license has been revoked by the board and who wishes to be reinstated must make a new application to the board, hold current, active certification by the NCCAOM, and pay the fee for reinstatement of his license as prescribed in subdivision 6 of 18VAC85-110-35.

**18VAC85-110-161. Restricted volunteer license.**

A. A licensed acupuncturist who held an unrestricted license issued by the Virginia Board of Medicine or by a board in another state as a licensee in good standing at the time the license expired or became inactive may be issued a restricted volunteer license to practice without compensation in a clinic that is organized in whole or in part for the delivery of health care services without charge in accordance with §54.1-106 of the Code of Virginia.

B. To be issued a restricted volunteer license, a licensed acupuncturist shall submit an application to the board that documents compliance with requirements of §54.1-2928.1 of the Code of Virginia and the application fee prescribed in 18VAC85-110-35.

C. The licensee who intends to continue practicing with a restricted volunteer license shall renew biennially during his birth month, meet the continued competency requirements prescribed in subsection D of this section, and pay to the board the renewal fee prescribed in 18VAC85-110-35.

D. The holder of a restricted volunteer license shall not be required to attest to hours of continuing education for the first renewal of such a license. For each renewal thereafter, the licensee shall attest to obtaining 20 hours of continuing education acceptable to the NCCAOM, obtained within the last biennium.

**18VAC85-110-170. [Repealed]**

## **Part VI. Standards of Professional Conduct.**

**18VAC85-110-175. Confidentiality.**

A practitioner shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered negligent or willful.

**18VAC85-110-176. Patient records.**

A. Practitioners shall comply with provisions of § 32.1-127.1:03 related to the confidentiality and disclosure of patient records.

B. Practitioners shall provide patient records to another practitioner or to the patient or his Personal representative in a timely manner and in accordance with provisions of § 32.1-127.1:03 of the Code of Virginia.

C. Practitioners shall properly manage patient records and shall maintain timely, accurate, legible and complete patient records.

D. Practitioners shall maintain a patient record for a minimum of six years following the last patient encounter with the following exceptions:

1. Records of a minor child, including immunizations, shall be maintained until the child reaches the age of 18 or becomes emancipated, with a minimum time for record retention of six years from the last patient encounter regardless of the age of the child; or

2. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or his personal representative; or

3. Records that are required by contractual obligation or federal law may need to be maintained for a longer period of time.

E. From October 19, 2005, practitioners shall post information or in some manner inform all patients concerning the time frame for record retention and destruction. Patient records shall only be destroyed in a manner that protects patient confidentiality, such as by incineration or shredding.

F. When a practitioner is closing, selling or relocating his practice, he shall meet the requirements of § 54.1-2405 of the Code of Virginia for giving notice that copies of records can be sent to any like-regulated provider of the patient's choice or provided to the patient.

**18VAC85-110-177. Practitioner-patient communication; termination of relationship.**

A. Communication with patients.

1. Except as provided in § 32.1-127.1:03 F of the Code of Virginia, a practitioner shall accurately inform a patient or his legally authorized representative of his professional assessment and prescribed treatment or plan of care. A practitioner shall not deliberately make a false or misleading statement regarding the practitioner's skill or the efficacy or value of a treatment, or procedure prescribed or directed by the practitioner in the treatment of any disease or condition.
2. A practitioner shall present information to a patient or his legally authorized representative in understandable terms and encourage participation in the decisions regarding the patient's care.
3. Before any acupuncture treatment or procedure is performed, informed consent shall be obtained from the patient. Practitioners shall inform patients of the risks, benefits, and alternatives of the recommended treatment that a reasonably prudent licensed acupuncturist practicing in Virginia would tell a patient. In the instance of a minor or a patient who is incapable of making an informed decision on his own behalf or is incapable of communicating such a decision due to a physical or mental disorder, the legally authorized person available to give consent shall be informed and the consent documented.

B. Termination of the practitioner/patient relationship.

1. The practitioner or the patient may terminate the relationship. In either case, the practitioner shall make a copy of the patient record available, except in situations where denial of access is allowed by law.
2. A practitioner shall not terminate the relationship or make his services unavailable without documented notice to the patient that allows for a reasonable time to obtain the services of another practitioner.

**18VAC85-110-178. Practitioner responsibility.**

A practitioner shall not:

1. Perform procedures or techniques that are outside the scope of his practice or for which he is not trained and individually competent;
2. Knowingly allow subordinates to jeopardize patient safety or provide patient care outside of the subordinate's scope of practice or area of responsibility. Practitioners shall delegate patient care only to subordinates who are properly trained and supervised;
3. Engage in an egregious pattern of disruptive behavior or interaction in a health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; or
4. Exploit the practitioner/patient relationship for personal gain.

B. Advocating for patient safety or improvement in patient care within a health care entity shall not constitute disruptive behavior provided the practitioner does not engage in behavior prohibited in A 2 of this section.

**18VAC85-110-179. Advertising ethics.**

- A. Any statement specifying a fee, whether standard, discounted or free, for professional services which does not include the cost of all related procedures, services and products which, to a substantial likelihood, will be necessary for the completion of the advertised service as it would be understood by an ordinarily prudent person shall be deemed to be deceptive or misleading, or both. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of prices for specifically described services shall not be deemed to be deceptive or misleading.
- B. Advertising a discounted or free service, examination, or treatment and charging for any additional service, examination, or treatment which is performed as a result of and within 72 hours of the initial office visit in response to such advertisement is unprofessional conduct unless such professional services rendered are as a result of a bonafide emergency. This provision may not be waived by agreement of the patient and the practitioner.
- C. Advertisements of discounts shall disclose the full fee that has been discounted. The practitioner shall maintain documented evidence to substantiate the discounted fees and shall make such information available to a consumer upon request.
- D. A licensee shall disclose the complete name of the specialty board which conferred the certification when using or authorizing the use of the term "board certified" or any similar words or phrase calculated to convey the same meaning in any advertising for his practice.
- E. A licensee of the board shall not advertise information which is false, misleading, or deceptive. For an advertisement for a single practitioner, it shall be presumed that the practitioner is responsible and accountable for the validity and truthfulness of its content. For an advertisement for a practice in which there is more than one practitioner, the name of the practitioner or practitioners responsible and accountable for the content of the advertisement shall be documented and maintained by the practice for at least two years.

**18VAC85-110-180. Vitamins, minerals and food supplements.**

- A. The recommendation or direction for the use of vitamins, minerals or food supplements and the rationale for that recommendation shall be documented by the practitioner. The recommendation or direction shall be based upon a reasonable expectation that such use will result in a favorable patient outcome, including preventive practices, and that a greater benefit will be achieved than that which can be expected without such use.
- B. Vitamins, minerals, or food supplements, or a combination of the three, shall not be sold, dispensed, recommended, prescribed, or suggested in doses that would be contraindicated based on the individual patient's overall medical condition and medications.
- C. The practitioner shall conform to the standards of his particular branch of the healing arts in the therapeutic application of vitamins, minerals or food supplement therapy.

**18VAC85-110-181. Solicitation or remuneration in exchange for referral.**

A practitioner shall not knowingly and willfully solicit or receive any remuneration, directly or indirectly, in return for referring an individual to a facility or institution as defined in §37.2-100 of the Code of Virginia, or hospital as defined in §32.1-123 of the Code of Virginia.

Remuneration shall be defined as compensation, received in cash or in kind, but shall not include any payments, business arrangements, or payment practices allowed by Title 42, §1320a-7b(b) of the United States Code, as amended, or any regulations promulgated thereto.

**18VAC85-110-182. Sexual contact.**

A. For purposes of § 54.1-2915 A 12 and A 19 of the Code of Virginia and this section, sexual contact includes, but is not limited to, sexual behavior or verbal or physical behavior which:

1. May reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both; or
2. May reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it.

B. Sexual contact with a patient.

1. The determination of when a person is a patient for purposes of § 54.1-2915 A 19 of the Code of Virginia is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. A person is presumed to remain a patient until the patient-practitioner relationship is terminated.

2. The consent to, initiation of, or participation in sexual behavior or involvement with a practitioner by a patient does not change the nature of the conduct nor negate the statutory prohibition.

C. Sexual contact between a practitioner and a former patient.

Sexual contact between a practitioner and a former patient after termination of the practitioner-patient relationship may still constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from the professional relationship.

D. Sexual contact between a practitioner and a key third party shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care. For purposes of this section, key third party of a patient shall mean: spouse or partner, parent or child, guardian, or legal representative of the patient.

E. Sexual contact between a supervisor and a trainee shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care.

**18VAC85-110-183. Refusal to provide information.**

A practitioner shall not willfully refuse to provide information or records as requested or required by the board or its representative pursuant to an investigation or to the enforcement of a statute or regulation.

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The travel regulations require that “travelers must submit the Travel Expense Reimbursement Voucher within 30 days after completion of their trip.” (CAPP Topic 20335, State Travel Regulations, P.7)

In order for the agency to be in compliance with the state travel regulations, please submit your request for today’s meeting no later than February 15, 2013

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