



Advisory Board on
Acupuncture

Virginia Board of Medicine

May 22, 2019

10:00 a.m.

Advisory Board on Acupuncture
Board of Medicine
Wednesday, May 22, 2019 @ 10:00 a.m.
9960 Mayland Drive, Suite 201, Henrico, VA
Training Room 2

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Call to Order – Janet Borges, L.Ac., Chair	
Emergency Egress Procedures – William Harp, MD	i
Roll Call – Beulah Archer	
Approval of Minutes of October 3, 2018	1
Adoption of the Agenda	
Public Comment on Agenda Items (15 minutes)	
New Business	
1. Report of the 2019 General Assembly.....	4
2. Regulations Governing the practice of Licensed Acupuncturists.....	13
Announcements	
Adjournment	
Next Scheduled Meeting: October 4, 2019 @ 10:00 a.m.	

**PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS**
(Script to be read at the beginning of each meeting.)

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Training Room 2

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<< DRAFT UNAPPROVED >>

ADVISORY BOARD ON ACUPUNCTURE

The Advisory Board on Acupuncture met on Wednesday, October 3, 2018, at 10:00 a.m. at the Department of Health Professions at 9960 Mayland Drive, Henrico, VA 23233.

MEMBERS PRESENT: Lynn Almloff, L. Ac., Chair
Janet L. Borges, L.Ac., Vice-Chair
Sharon Crowell, L.Ac.
Chheany Ung, M.D.
Leslie Rubio, Citizen Member

MEMBERS ABSENT: None

STAFF PRESENT: William L. Harp, M.D., Executive Director
Colanthia Opher Morton, Deputy for Administration
Elaine Yeatts, DHP Senior Policy Analyst
Beulah Baptist Archer, Licensing Specialist

GUESTS PRESENT: Matthew P. Stanley, ASVA

CALL TO ORDER

Lynn Almloff called the meeting to order.

EMERGENCY EGRESS PROCEDURES

Dr. Harp announced the Emergency Egress Procedures.

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

APPROVAL OF THE MINUTES FROM January 31, 2018.

Janet Borges moved to approve the minutes. The motion was seconded and carried.

ADOPTION OF AGENDA

Sharon Crowell moved to adopt the agenda. It was seconded and carried.

PUBLIC COMMENT ON AGENDA ITEMS

There was no public comment.

NEW BUSINESS

1. Periodic review of regulations

Ms. Yeatts explained the 4-year process of mandatory, periodic regulatory review. She said regulations may be retained with no changes or amendments could be recommended by the Advisory Board. Any recommended changes would go to the full Board for consideration on October 18th. She then led the Advisory Board through the regulations.

Following a periodic review of Chapter 110, the Advisory Board voted to recommend the following amendments:

Section 36 Insert “to be” and delete, ‘mailed’ and insert ‘sent’.

(“...All notices required by law or by this chapter to be given by the board to any such licensee shall be validly given when sent to...”)

Section 80

Replace Practical Examination of Point Location Evaluation Skills (PEPLS) test with “... Point Location Examination.”

Section 180

Replace “vitamins, minerals or food” with the word’ dietary” to read, “dietary supplements”.

Education Requirements

Ms. Yeatts clarified the following:

Attaining education after 1990, section B applies.

Attaining education after 1999, section C applies.

Attaining education after 2011, section D applies.

The hours in the regulations for acupuncture coursework are still accurate with ACAOM.

Foreign Graduates

Beulah Archer stated that the process for reviewing and authenticating foreign education is through credentials-evaluating organizations to ensure that they meet the American equivalent.

Fee Reductions

Ms. Yeatts explained that fee reductions must occur when revenues exceed expenditures by 10%. Fee reduction can be done as an exempt action. Renewal fees will be reduced in 2019.

2. Board Member Badges

Dr. Harp advised that badges will no longer issued by DHP. Visitor badges will be issued to Board members while they are here on business and will return them upon departure.

3. 2019 Meeting Calendar

All dates were satisfactory to the Advisory Board members.

4. Election of Officers

Lynn Almloff nominated Janet Borges as Chair. The nomination was seconded and carried.

Lynn Almloff nominated Sharon Crowell as Vice-Chair. The nomination was seconded and carried.

ANNOUNCEMENTS

No announcements.

NEXT SCHEDULED MEETING:

January 23, 2019 at 10:00 a.m.

ADJOURNMENT

Lynn Almloff adjourned the meeting.

Lynn Almloff, L.Ac., Chair

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

Beulah Baptist Archer, Licensing Specialist

**Board of Medicine
Report of the 2019 General Assembly**

HB 1952 Patient care teams; podiatrists and physician assistants.

Chief patron: Campbell, J.L.

Summary as passed House:

Patient care team podiatrist definition; physician assistant supervision requirements. Establishes the role of "patient care team podiatrist" as a provider of management and leadership to physician assistants in the care of patients as part of a patient care team. The bill modifies the supervision requirements for physician assistants by establishing a patient care team model. The bill directs the Board of Medicine to adopt emergency regulations to implement the provisions of the bill and is identical to SB 1209.

02/22/19 Governor: Acts of Assembly Chapter text (CHAP0137)

HB 1970 Telemedicine services; payment and coverage of services.

Chief patron: Kilgore

Summary as passed:

Telemedicine services; coverage. Requires insurers, corporations, or health maintenance organizations to cover medically necessary remote patient monitoring services as part of their coverage of telemedicine services to the full extent that these services are available. The bill defines remote patient monitoring services as the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload. The bill requires the Board of Medical Assistance Services to include in the state plan for medical assistance services a provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services. This bill is identical to SB 1221.

03/05/19 Governor: Acts of Assembly Chapter text (CHAP0211)

HB 1971 Health professions and facilities; adverse action in another jurisdiction.

Chief patron: Stolle

Summary as introduced:

Health professions and facilities; adverse action in another jurisdiction. Provides that the mandatory suspension of a license, certificate, or registration of a health professional by the Director of the Department of Health Professions is not required when the license, certificate, or registration of a health professional is revoked, suspended, or surrendered in another jurisdiction based on disciplinary action or mandatory suspension in the Commonwealth. The bill extends the time by which the Board of Pharmacy (Board) is required to hold a hearing after receiving an application for reinstatement from a nonresident pharmacy whose registration has been suspended by the Board based on revocation or suspension in another jurisdiction from not later than its next regular meeting after the expiration of 30 days from receipt of the reinstatement application to not later than its next regular meeting after the expiration of 60 days from receipt of the reinstatement application.

02/22/19 Governor: Acts of Assembly Chapter text (CHAP0138)

HB 2169 Physician assistants; licensure by endorsement.

Chief patron: Thomas

Summary as passed:

Physician assistants; licensure by endorsement. Authorizes the Board of Medicine to issue a license by endorsement to an applicant for licensure as a physician assistant who (i) is the spouse of an active duty member of the Armed Forces of the United States or the Commonwealth, (ii) holds current certification from the National Commission on Certification of Physician Assistants, and (iii) holds a license as a physician assistant that is in good standing, or that is eligible for reinstatement if lapsed, under the laws of another state.

03/12/19 Governor: Acts of Assembly Chapter text (CHAP0338)

HB 2184 Volunteer license, special; issuance for limited practice.

Chief patron: Kilgore

Summary as passed:

Volunteer dentists and dental hygienists. Removes certain requirements for dentists and dental hygienists volunteering to provide free health care for up to three consecutive days to an underserved area of the Commonwealth under the auspices of a publicly supported nonprofit organization that sponsors the provision of health care to populations of underserved people.

03/08/19 Governor: Acts of Assembly Chapter text (CHAP0290)

HB 2228 Nursing and Psychology, Boards of; health regulatory boards, staggered terms.

Chief patron: Bagby

Summary as introduced:

Composition of the Boards of Nursing and Psychology; health regulatory boards; staggered terms. Alters the composition of the Board of Nursing and replaces the requirement that the Board of Nursing meet each January with the requirement that it meet at least annually. The bill also removes specific officer titles from the requirement that the Board of Nursing elect officers from its membership. The bill replaces the requirement that a member of the Board of Psychology be licensed as an applied psychologist with the requirement that that position be filled by a member who is licensed in any category of psychology. The bill also provides a mechanism for evenly staggering the terms of members of the following health regulatory boards, without affecting the terms of current members: Board of Nursing, Board of Psychology, Board of Dentistry, Board of Long-Term Care Administrators, Board of Medicine, Board of Veterinary Medicine, Board of Audiology and Speech-Language Pathology, Board of Pharmacy, and Board of Counseling.

02/27/19 Governor: Acts of Assembly Chapter text (CHAP0169)

HB 2457 Medicine, osteopathy, podiatry, or chiropractic, practitioners of; inactive license, charity care.

Chief patron: Landes

Summary as passed:

Practitioners of medicine, osteopathy, podiatry, or chiropractic; retiree license. Provides that the Board of Medicine may issue a retiree license to any doctor of medicine, osteopathy, podiatry, or chiropractic who holds an active, unrestricted license to practice in the Commonwealth upon receipt of a request and submission of the required fee. The bill provides that a person to whom a retiree license has been issued shall not be required to meet continuing competency requirements for the first biennial renewal of such license. The bill also provides that a person to whom a retiree license has been issued shall only engage in the practice of medicine, osteopathy, podiatry, or chiropractic for the purpose of providing charity care or health care services to patients in their residence for whom travel is a barrier to receiving health care.

03/14/19 Governor: Acts of Assembly Chapter text (CHAP0379)

HB 2557 Drug Control Act; classifies gabapentin as a Schedule V controlled substance.

Chief patron: Pillion

Summary as passed:

Drug Control Act; Schedule V; gabapentin. Classifies gabapentin as a Schedule V controlled substance. Current law lists gabapentin as a drug of concern. The bill also removes the list of drugs of concern from the Code of Virginia and provides that any wholesale drug distributor licensed and regulated by the Board of Pharmacy and registered with and regulated by the U.S. Drug Enforcement Administration shall have until July 1, 2020, or within six months of final approval of compliance from the Board of Pharmacy and the U.S. Drug Enforcement Administration, whichever is earlier, to comply with storage requirements for Schedule V controlled substances containing gabapentin.

03/05/19 Governor: Acts of Assembly Chapter text (CHAP0214)

HB 2559 Electronic transmission of certain prescriptions; exceptions.

Chief patron: Pillion

Summary as passed House:

Electronic transmission of certain prescriptions; exceptions. Provides certain exceptions, effective July 1, 2020, to the requirement that any prescription for a controlled substance that contains an opioid be issued as an electronic prescription. The bill requires the licensing health regulatory board of a prescriber to grant such prescriber a waiver of the electronic prescription requirement for a period not to exceed one year due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber. The bill provides that a dispenser is not required to verify whether one of the exceptions applies when he receives a non-electronic prescription for a controlled substance containing an opioid. The bill requires the Boards of Medicine, Nursing, Dentistry, and Optometry to promulgate regulations to implement the prescriber waivers. Finally, the bill requires the Secretary of Health and Human Resources to convene a work group to identify successes and challenges of the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid and to report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2022.

03/21/19 Governor: Acts of Assembly Chapter text (CHAP0664)

HB 2731 Lyme disease; disclosure of information to patients.

Chief patron: Edmunds

Summary as passed House:

Lyme disease; disclosure of information to patients. Requires every laboratory reporting the results of a test for Lyme disease ordered by a health care provider in an office-based setting to include, together with the results of such test provided to the health care provider, a notice stating that the results of Lyme disease tests may vary and may produce results that are inaccurate and that a patient may not be able to rely on a positive or negative result from such test. Such notice shall also include a statement that health care providers are encouraged to discuss Lyme disease test results with the patient for whom the test was ordered. The bill also provides that a laboratory that complies with the provisions of the bill shall be immune from civil liability absent gross negligence or willful misconduct.

03/18/19 Governor: Acts of Assembly Chapter text (CHAP0435)

SB 1004 Elective procedure, test, or service; estimate of payment amount.

Chief patron: Chase

Summary as passed:

Advance estimate of patient payment amount for elective medical procedure, test, or service; notice of right to request. Provides that every hospital currently required to provide an estimate of the payment amount for an elective procedure, test, or service for which a patient may be responsible shall also be required to provide each patient with written information regarding his right to request such estimate, to post written information regarding a patient's right to request such estimate conspicuously in public areas of the hospital, and to make such information available on the hospital's website.

03/21/19 Governor: Acts of Assembly Chapter text (CHAP0671)

SB 1106 Physical therapists & physical therapist assistants; licensure, Physical Therapy Licensure Compact.

Chief patron: Peake

Summary as introduced:

Licensure of physical therapists and physical therapist assistants; Physical Therapy Licensure Compact. Authorizes Virginia to become a signatory to the Physical Therapy Licensure Compact. The Compact permits eligible licensed physical therapists and physical therapist assistants to practice in Compact member states, provided they are licensed in at least one member state. In addition, the bill requires each applicant for licensure in the Commonwealth as a physical therapist or physical therapist assistant to submit fingerprints and provide personal descriptive information in order for the Board to receive a state and federal criminal history record report for each applicant. The bill has a delayed effective date of January 1, 2020, and directs the Board of Physical Therapy to adopt emergency regulations to implement the provisions of the bill.

03/08/19 Governor: Acts of Assembly Chapter text (CHAP0300)

SB 1167 Medicaid recipients; treatment involving opioids or opioid replacements, payment.

Chief patron: Chafin

Summary as passed:

Medicaid recipients; treatment involving opioids or opioid replacements; payment. Prohibits health care providers licensed by the Board of Medicine from requesting or requiring a patient who is a recipient of medical assistance services pursuant to the state plan for medical assistance to pay out-of-pocket costs associated with the provision of service involving (i) the prescription of an opioid for the management of pain or (ii) the prescription of buprenorphine-containing products, methadone, or other opioid replacements approved for the treatment of opioid addiction by the U.S. Food and Drug Administration for medication-assisted treatment of opioid addiction. The bill requires providers who do not accept payment from the Department of Medical Assistance Services (DMAS) who provide such services to patients participating in the Commonwealth's program of medical assistance services to provide written notice to such patient that (a) the Commonwealth's program of medical assistance services covers such health care services and DMAS will pay for such health care services if such health care services meet DMAS's medical necessity criteria and (b) the provider does not participate in the Commonwealth's program of medical assistance and will not accept payment from DMAS for such health care services. Such notice and the patient's acknowledgement of such notice shall be documented in the patient's medical record. This bill is identical to HB 2558.

03/18/19 Governor: Acts of Assembly Chapter text (CHAP0444)

SB 1439 Death certificates; medical certification, electronic filing.

Chief patron: McClellan

Summary as passed:

Death certificates; medical certification; electronic filing. Requires the completed medical certification portion of a death certificate to be filed electronically with the State Registrar of Vital Records through the Electronic Death Registration System and provides that, except for under certain circumstances, failure to file a medical certification of death electronically through the Electronic Death Registration System shall constitute grounds for disciplinary action by the Board of Medicine. The bill includes a delayed effective date of January 1, 2020, and a phased-in requirement for registration with the Electronic Death Registration System and electronic filing of medical certifications of death for various categories of health care providers. The bill directs the Department of Health to work with stakeholders to educate and encourage physicians, physician assistants, and nurse practitioners to timely register with and utilize the Electronic Death Registration System.

03/05/19 Governor: Acts of Assembly Chapter text (CHAP0224)

SB 1547 Music therapists; Board of Health Professions to evaluate regulation.

Chief patron: Vogel

Summary as passed:

Music therapy. Directs the Board of Health Professions to evaluate whether music therapists and the practice of music therapy should be regulated and the degree of regulation to be imposed. The bill requires the Board to report the results of its evaluation to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2019.

03/21/19 Governor: Acts of Assembly Chapter text (CHAP0680)

SB 1557 Pharmacy, Board of; cannabidiol oil and tetrahydrocannabinol oil, regulation of pharmaceutical.

Chief patron: Dunnivant

Summary as passed:

Board of Pharmacy; cannabidiol oil and tetrahydrocannabinol oil; regulation of pharmaceutical processors. Authorizes licensed physician assistants and licensed nurse practitioners to issue a written

certification for use of cannabidiol oil and THC-A oil. The bill requires the Board to promulgate regulations establishing dosage limitations, which shall require that each dispensed dose of cannabidiol oil or THC-A oil not exceed 10 milligrams of tetrahydrocannabinol. The bill requires the Secretary of Health and Human Resources and the Secretary of Agriculture and Forestry to convene a work group to review and recommend an appropriate structure for an oversight organization in Virginia and report its findings and recommendations to the Chairmen of the Senate Committees on Agriculture, Conservation and Natural Resources and Education and Health and the House Committees on Agriculture, Chesapeake and Natural Resources and Health, Welfare and Institutions by November 1, 2019.

03/21/19 Governor: Acts of Assembly Chapter text (CHAP0681)

SB 1760 Diagnostic X-ray machines; operation of machine.

Chief patron: DeSteph

Summary as introduced:

Diagnostic X-ray machines; operation. Provides that no person who has been trained and certified in the operation of a diagnostic X-ray machine by the manufacturer of such machine is required to obtain any other training, certification, or licensure or be under the supervision of a person who has obtained training, certification, or licensure to operate such a diagnostic X-ray machine, provided that (i) such diagnostic X-ray machine (a) is registered and certified by the Department of Health, (b) is being operated to conduct a body composition scan, and (c) is not operated to determine bone density or in the diagnosis or treatment of a patient and (ii) the subject of the body composition scan is notified of the risks associated with exposure to radiation emitted by the diagnostic X-ray machine.

01/31/19 Senate: Passed by indefinitely in Education and Health with letter (15-Y 0-N)

SB 1778 Counseling minors; certain health regulatory boards to promulgate regulations.

Chief patron: Newman

Summary as introduced:

Health regulatory boards; conversion therapy. Directs the Board of Counseling, the Board of Medicine, the Board of Nursing, the Board of Psychology, and the Board of Social Work to each promulgate regulations prohibiting the use of electroshock therapy, aversion therapy, or other physical treatments in the practice of conversion therapy with any person under 18 years of age.

02/06/19 Senate: Left in Education and Health

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Board of Medicine
Regulatory/Policy Actions – 2019 General Assembly

EMERGENCY REGULATIONS:

Legislative source	Mandate	Promulgating agency	Board adoption date	Effective date Within 280 days of enactment
HB1952	Patient care team – PAs	Medicine	6/13/19 or 8/2/19 (signed 2/22)	11/25/19
HB2559	Waiver for electronic prescribing	Medicine	6/13/19 or 8/2/19 (signed 3/21)	12/24/19

APA REGULATORY ACTIONS

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB2457	Retiree license	Medicine	NOIRA – 6/13/19	?

NON-REGULATORY ACTIONS

Legislative source	Affected agency	Action needed	Due date
HB1970	Department	Review of telehealth; practice by adjacent physicians	11/1/19
HB2169	Medicine	Review/revision of application content & process to identify & expedite military spouse apps	7/1/19
SB1557	Medicine/Pharmacy/Department	Inclusion of NPs and PAs for registration to issue certifications Participation in workgroup to study oversight organization	7/1/19
SB1760 (not passed)	Department (Medicine)	Study of Xrays in spas – VDH	11/1/19
HJ682 (not passed)	Department	Study of foreign-trained physicians to provide services in rural areas	11/1/19

Future Policy Actions:

HB793 (2018) - (2) the Department of Health Professions, by November 1, 2020, to report to the General Assembly a process by which nurse practitioners who practice without a practice agreement may be included in the online Practitioner Profile maintained by the Department of Health Professions; and (3) the Boards of Medicine and Nursing to report information related to the practice of nurse practitioners without a practice agreement that includes certain data, complaints and disciplinary actions, and recommended modifications to the provisions of this bill to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health and the Chairman of the Joint Commission on Health Care by November 1, 2021.

HB2559 (2019) - requires the Secretary of Health and Human Resources to convene a work group to identify successes and challenges of the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid and to report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2022.

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***

Revised Date: March 22, 2019

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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, 18VAC85-11, entitled Public Participation Guidelines, 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. For 2019, the fee for renewal of an active license shall be \$108 and the fee for renewal of an inactive license shall be \$54.
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 to be given by the board to any such licensee shall be validly given when sent 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, that 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 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 may not be used to meet the requirements for acupuncture education.

D. Requirements for acupuncture education obtained after February 1, 2011, 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 1,905 hours of entry-level acupuncture education to include at least 1,155 didactic hours and 660 clinical hours. Clinical hours may include observation, as well as internship or treatment hours; the remaining 90 hours may be earned as either didactic or clinical hours. Correspondence programs or courses in acupuncture are excluded and may not be used to meet the requirements for acupuncture education.

E. 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 meets the applicable requirements of subsection A, B, C, or D of this section, with the exception of full ACAOM accreditation.

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 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. [Repealed]

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.

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.