

## Welcome to the Advisory Board on Acupuncture

The Virginia Board of Medicine will hold an electronic meeting of the Advisory Board on Acupuncture on **January 27, 2021 at 10:00 A.M.** This meeting will be supported by Cisco WebEx Meetings application.

For the best WebEx experience, you may wish to download the Cisco WebEx Meeting application on your mobile device, tablet or laptop in advance of the meeting. Please note that WebEx will make an audio recording of the meeting for posting

This electronic meeting is deemed warranted under Amendment 28 to HB29 based on that requiring in-person attendance by the Advisory Board members is impracticable or unsafe to assemble in a single location.

Comments will be received from those persons who have submitted an email to [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov) no later than 8:00 a.m. on January 26, 2021 indicating that they wish to offer comment. Comment may be offered by these individuals when their names are announced by the chairman.

Whether you are a member of the Advisory Board or a member of the public, you can join the meeting in the following ways.

- **JOIN by WEBEX**

<https://covaconf.webex.com/covaconf/j.php?MTID=m0c7862f67b48a6dd9b97026839960eb0>

Meeting number (access code): 178 930 2892

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**TECHNICAL DIFFICULTIES:** Should you experience technical difficulties, you may call the following number: (804) 339-0627 for assistance. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

The Board of Medicine and the Freedom of Information Act Council are interested in your evaluation of the electronic experience of this meeting. You can provide comment via the following form **HERE**.

# Advisory Board on Acupuncture

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Virginia Board of Medicine  
January 27, 2021  
10:00 am

**Advisory Board on Acupuncture**

Board of Medicine

Wednesday, January 27, 2021 @ 10:00 a.m.

9960 Mayland Drive, Suite 300, Henrico, VA

**Electronic Meeting**

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Call to Order – Janet Borges, LAc. Chair	
Emergency Egress Procedures – William Harp, MD	i
Roll Call – Beulah Archer	
Approval of Minutes of October 7, 2020	1 - 2
Adoption of the Agenda	
Public Comment on Agenda Items (15 minutes)	
Correspondence - Regulation Amendment to Allow Supervised Student Practice -Joseph Schibner IV, L.Ac.	3 - 4
<b>New Business</b>	
1. Report of 2021 General Assembly ..... Elaine Yeatts	5 - 20
2. Regulations Governing the Practice of Licensed Acupuncturists ..... -Janet Borges, LAc.	21 - 33

Announcements:

Next Scheduled Meeting: May 26, 2021 @ 10:00 a.m.

Adjournment

<< DRAFT UNAPPROVED >>

**ADVISORY BOARD ON ACUPUNCTURE**

**Minutes**

October 7, 2020

**Electronic Meeting**

The Advisory Board on Acupuncture held a virtual meeting on Wednesday, October 7, 2020 hosted at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

**MEMBERS PRESENT:** Janet Borges, L.Ac., Chair  
Sharon Crowell, L.Ac., Vice-Chair  
R. Keith Bell, L.Ac.

**MEMBERS ABSENT:** Chheany W.C. Ung, MD  
Beth Rodgers

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

**GUESTS PRESENT:** None

**CALL TO ORDER**

Janet Borges, L.Ac. called the meeting to order at 10:02 am.

**EMERGENCY EGRESS PROCEDURES**

Janet Borges announced the emergency egress instructions.

**ROLL CALL**

Roll was called, and a quorum was declared.

**APPROVAL OF MINUTES OF MAY 24, 2019**

Sharon Crowell moved to approve the minutes from the May 24, 2019 meeting. Janet Borges seconded. By roll call vote, the minutes were approved as presented.

**ADOPTION OF AGENDA**

R. Keith Bell moved to adopt the agenda. Sharon Crowell seconded. The agenda was adopted by a roll call vote.

<< DRAFT UNAPPROVED >>

**PUBLIC COMMENT ON AGENDA ITEMS**

There was no public comment.

**NEW BUSINESS**

1. Regulatory Update and Report from the 2020 General Assembly

Elaine Yeatts provided a regulatory update and report of the actions of the 2020 General Assembly. She discussed bills that were of interest to members.

2. Approval of 2021 Meeting Calendar

Sharon Crowell motioned to approve the meeting calendar for 2021. R. Keith Bell seconded. By roll call vote, the 2021 meeting calendar was approved.

3. Election of Officers

Sharon Crowell moved that Janet Borges remain Chair of the Advisory Board. R. Keith Bell seconded. Janet Borges nominated Sharon Crowell to continue as Vice-Chair. R. Keith Bell seconded. By roll call vote, Janet Borges was elected to continue as Chair, and Sharon Crowell was elected to continue as Vice-Chair.

**ANNOUNCEMENTS**

The Board has 582 licensed acupuncturists. From May 2019 to the present, 66 licenses have been issued. 436 are current active with 135 of those being out-of-state.

**NEXT SCHEDULED MEETING:**

January 27, 2021 at 10:00 a.m.

**ADJOURNMENT**

Janet Borges adjourned the meeting at 10:36 am.

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Janet L. Borges, L. Ac., Chair

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

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Beulah Baptist Archer, Licensing Specialist



LOTUS SCHOOL  
*of*  
INTEGRATED PROFESSIONS

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[www.lotusva.com](http://www.lotusva.com) ♦ 10960 Three Chopt Road, Suite A ♦ Henrico, Virginia 23233 ♦ (804) 290-0980

Dear Virginia Acupuncture Advisory Board:

My name is Dr. Joseph Schibner; I am the president of the Lotus School of Integrated Professions located in Henrico, Virginia. As of January 4, 2021, we began a master's degree program in Oriental medicine. The Lotus School of Integrated Professions has been approved to offer this degree by the State Council of Higher Education for Virginia, Accrediting Commission for Career Schools and Colleges, and in the process of seeking approval from the Accrediting Commission for Acupuncture and Oriental Medicine.

During the planning process, I realized the current Virginia regulations governing acupuncture do not specifically cover the manner in which students must practice in a supervised setting to meet regulatory requirements in order to become a licensed acupuncturist in Virginia. The Virginia regulations, as well as the Accrediting Commission for Acupuncture and Oriental Medicine (ACAOM) regulations, require both clinical and observation hours. However, there is currently no provision in the Virginia state regulation to allow this, even though Virginia requires the supervised clinical hours.

I have included the regulation from ACAOM and Virginia, which show the clinical requirements:

ACAOM Standard 7.02:

Masters' degree in acupuncture: 660 clock hours of instruction in clinical training, comprised of at least 150 hours in clinical observation and 500 clock hours of instruction in clinical internship.

Master's degree in acupuncture with a Chinese herbal medicine specialization:

870 clock hours of instruction in integrated acupuncture and herbal clinical training, comprised of

at least 150 hours in clinical observation and 700 clock hours of instruction in clinical internship

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18VAC85-110-50.D

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.

I ask that the Acupuncture Advisory Board make a recommendation to the Virginia Board of Medicine that the regulations governing acupuncture be amended to allow for students to practice under appropriate supervision, in order to fulfill the established Virginia state regulations governing the licensure and practice of acupuncture in Virginia.

Thank you for your time and considerations.

Dr. Joseph Schibner

Dr. Joseph Louis Schibner IV  
D.O.M., L.Ac., L.M.T  
President  
Lotus School of Integrated Professions  
804-290-0980  
drschibner@lotusva.com

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Report of the 2021 General Assembly Session

January 20, 2021

**HB 1737 Nurse practitioners; practice without a practice agreement.**

*Chief patron:* Adams, D.M.

*Summary as introduced:*

**Nurse practitioners; practice without a practice agreement.** Reduces from five to two the number of years of full-time clinical experience a nurse practitioner must have to be eligible to practice without a written or electronic practice agreement.

**HB 1747 Clinical nurse specialist; licensure of nurse practitioners as specialists, etc.**

*Chief patron:* Adams, D.M.

*Summary as introduced:*

**Clinical nurse specialist; licensure; practice.** Provides for the licensure of nurse practitioners as clinical nurse specialists by the Boards of Medicine and Nursing and provides that a nurse practitioner licensed as a clinical nurse specialist shall practice pursuant to a practice agreement between the clinical nurse specialist and a licensed physician. The bill requires the Boards of Medicine and Nursing to jointly issue a license to practice as a nurse practitioner in the category of a clinical nurse specialist to an applicant who is an advance practice registered nurse who has completed an advanced graduate-level education program in the specialty category of clinical nurse specialist and who is registered by the Board of Nursing as a clinical nurse specialist on July 1, 2021.

**HB 1769 Health care providers, certain; licensure or certification by endorsement.**

*Chief patron:* Freitas

*Summary as introduced:*

**Certain health care providers; licensure or certification by endorsement.** Requires the Board of Medicine to issue a license or certificate by endorsement to an applicant who holds a valid, unrestricted license or certificate under the laws of another state, the District of Columbia, or a United States territory or possession with which the Commonwealth has not established a reciprocal relationship upon endorsement by the appropriate board or other appropriate



authority of such other state, the District of Columbia, or United States territory or possession and a determination by the Board of Medicine that the applicant's credentials are satisfactory to the Board of Medicine and the examinations and passing grades required by such other board or authority are fully equal to those required by the Board of Medicine.

**HB 1795 Counseling, Board of; licensure of professional counselors without examination.**

*Chief patron:* Cole, M.L.

*Summary as introduced:*

**Board of Counseling; licensure of professional counselors without examination.** Requires the Board of Counseling to issue a license as a licensed professional counselor without examination to a person who has applied for such a license and who satisfies all other education, experience, and fitness to practice requirements set forth in regulation and who, in the judgment of the Board, is qualified to practice professional counseling.

**HB 1815 Marijuana; legalization of cultivation, manufacture, sale, possession, and testing, penalties.**

*Chief patron:* Heretick

*Summary as introduced:*

**Marijuana; legalization of cultivation, manufacture, sale, possession, and testing; penalties.** Establishes a regulatory scheme for the regulation of marijuana cultivation facilities, marijuana manufacturing facilities, marijuana testing facilities, and retail marijuana stores by the Board of Agriculture and Consumer Services. The bill also grants localities the authority to enact ordinances establishing additional licensing requirements for marijuana establishments located within such locality and allows the home cultivation of marijuana for personal use under certain circumstances. The bill imposes a tax on retail marijuana and retail marijuana products sold by a retail marijuana store at a rate of 9.7 percent (for a total sales tax of 15 percent) and provides that 67 percent of the revenues collected from the tax be deposited into the general fund and 33 percent of the revenues be deposited into a "Retail Marijuana Education Support Fund" to be used solely for purposes of public education. Finally, the bill establishes several new criminal penalties related to marijuana, as well as modifies some existing criminal penalties.

**HB 1817 Certified nurse midwives; practice.**

*Chief patron:* Adams, D.M.

*Summary as introduced:*

**Practice of certified nurse midwives.** Eliminates the requirement that certified nurse midwives practice pursuant to a practice agreement and provides that certified nurse midwives shall practice in accordance with regulations of the Boards of Medicine and Nursing and consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives and shall consult and collaborate with and refer patients to such other health care providers as may be appropriate for the care of the patient.

**HB 1913 Career fatigue and wellness in certain health care providers; programs to address, civil immunity.**

*Chief patron:* Hope

*Summary as introduced:*

**Programs to address career fatigue and wellness in certain health care providers; civil immunity.** Expands civil immunity for health care professionals serving as members of or consultants to entities that function primarily to review, evaluate, or make recommendations related to health care services to include health care professionals serving as members of or consultants to entities that function primarily to address issues related to career fatigue and wellness in health care professionals licensed, registered, or certified by the Boards of Medicine, Nursing, or Pharmacy, or in students enrolled in a school of medicine, osteopathic medicine, nursing, or pharmacy located in the Commonwealth. The bill contains an emergency clause.

EMERGENCY

**HB 1953 Licensed certified midwives; definition of practice, licensure, report.**

*Chief patron:* Gooditis

*Summary as introduced:*

**Licensed certified midwives; licensure; practice.** Defines "practice of licensed certified midwifery" and directs the Boards of Medicine and Nursing to establish criteria for the licensure and renewal of a license as a certified midwife. The bill also directs the Department of Health Professions to convene a workgroup to study the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals. The Department shall report its findings and conclusions to the Governor and the General Assembly by November 1, 2021.

**HB 1959 Medication abandonment and increasing patient medication adherence; options for reducing rates.**

*Chief patron:* Fowler

*Summary as introduced:*

**Study; Health Professions Subcommittee of the Committee on Health, Welfare and Institutions; options for reducing rates of medication abandonment and increasing patient medication adherence; report.** Directs the Health Professions Subcommittee of the Committee on Health, Welfare and Institutions to study options for reducing the rates of medication abandonment and increasing patient medication adherence, including the feasibility of permitting health plans and pharmacy benefits managers to make available in real time to enrollees and their health care providers, upon request of such health care provider made at the time a prescription drug is prescribed to an enrollee, information regarding the actual cost and any benefits of the prescription drug and any health insurance coverage related to the prescription drug.

**HB 1987 Telemedicine; coverage of telehealth services by an insurer, etc.**

*Chief patron:* Adams, D.M.

*Summary as introduced:*

**Telemedicine.** Clarifies that nothing shall preclude coverage of telehealth services by an insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; a corporation providing individual or group accident and sickness subscription contracts; or a health maintenance organization providing a health care plan for health care services. The bill requires the Board of Medical Assistance Services to amend the state plan for medical assistance to provide for payment of medical assistance for remote patient monitoring services provided via telemedicine for certain high-risk patients, and provides for the establishment of a practitioner-patient relationship via telemedicine for the prescribing of Schedule II through VI controlled substances.

**HB 1988 Cannabis oil; processing and dispensing by pharmaceutical processors.**

*Chief patron:* Adams, D.M.

*Summary as introduced:*

**Board of Pharmacy; pharmaceutical processors; processing and dispensing cannabis oil.**

Effects numerous changes to the processing and dispensing of cannabis oil by pharmaceutical processors in the Commonwealth. The bill defines the term "designated caregiver facility" and allows any staff member or employee of a designated caregiver facility to assist with the possession, acquisition, delivery, transfer, transportation, and administration of cannabis oil for any patients residing in the designated caregiver facility. The bill allows written certifications for use of cannabis oil to include an electronic practitioner signature. The bill removes the requirement that a cannabis dispensing facility undergo quarterly inspections and instead requires that inspections occur no more than once annually and allows pharmaceutical processors to remediate cannabis oil that fails any quality testing standard. The bill requires pharmaceutical processors to maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. The bill directs the Board of Pharmacy to promulgate regulations implementing the provisions of the bill and regulations creating reasonable restrictions on advertising and promotion by pharmaceutical processors by July 1, 2021.

**HB 2005 Disposition of the remains of a decedent; persons to make arrangements for funeral.**

*Chief patron: Sickles*

*Summary as introduced:*

**Disposition of the remains of a decedent; persons to make arrangements for funeral and disposition of remains.** Establishes an order of priority for persons who have the right to make arrangements and otherwise be responsible for a decedent's funeral and the disposition of his remains, provided that any such person is 18 years of age or older and of sound mind. The bill sets out, among other things, the circumstances under which such persons forfeit the right to make arrangements and otherwise be responsible for a person's funeral and the disposition of his remains and sets out assertions that a person seeking to exercise the right to make such arrangements must attest to in a signed written statement to be delivered to the funeral service establishment. Any funeral service establishment, funeral service establishment manager of record, funeral service licensee, funeral director, embalmer, registered crematory, registered crematory owner, registered crematory manager of record, or certified crematory operator that relies upon such a written statement shall be immune from civil or criminal liability for any act, decision, or omission in connection with following such person's direction related to the decedent's funeral and the disposition of his remains, unless such act, decision, or omission resulted from willful neglect or bad faith. The bill sets out rights of funeral service establishments when there is a dispute regarding the arrangements of a decedent's funeral or

his remains or the identity of any persons who have the right to make arrangements for the decedent. The bill specifies that the provisions do not apply to cemeteries or cemetery companies.

**HB 2039 Physician assistant; eliminates certain requirement for practice.**

*Chief patron:* Rasoul

*Summary as introduced:*

**Practice as a physician assistant.** Eliminates the requirement that a physician assistant enter into a practice agreement with a single patient care team physician or patient care team podiatrist and provides that a patient care team physician or patient care team podiatrist shall not be liable for the actions or inactions of a physician assistant for whom the patient care team physician or patient care team podiatrist provides collaboration and consultation. The bill also makes clear that a student physician assistant shall not be required to be licensed to engage in acts that otherwise constitute practice as a physician assistant, provided that the student physician assistant is enrolled in an accredited physician assistant education program.

**HB 2044 Naturopathic doctors; Board of Medicine to license and regulate.**

*Chief patron:* Rasoul

*Summary as introduced:*

**Naturopathic doctors; license required.** Requires the Board of Medicine to license and regulate naturopathic doctors. The practice of naturopathic medicine is defined in the bill as (i) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injury, and disease and (ii) the use of both naturopathic and traditional medical therapies to promote or restore whole patient health. The bill also establishes the Advisory Board on Naturopathic Medicine to assist the Board of Medicine in formulating regulations related to the practice of naturopathic medicine.

**HB 2061 VIIS; any health care provider in the Commonwealth that administers immunizations to participate.**

*Chief patron:* Willett

*Summary as introduced:*

**Virginia Immunization Information System; health care entities; required participation.**

Requires any health care provider in the Commonwealth that administers immunizations to

participate in the Virginia Immunization Information System (VIIS) and report patient immunization history and information to VIIS. Under current law, participation in VIIS is optional for authorized health care entities. The bill has a delayed effective date of January 1, 2022.

**HB 2079 Pharmacists; initiation of treatment with and dispensing and administering of drugs and devices.**

*Chief patron:* Rasoul

*Summary as introduced:*

**Pharmacists; initiation of treatment; certain drugs and devices.** Expands provisions governing the initiation of treatment with and dispensing and administering of drugs and devices by pharmacists to allow the initiation of treatment with and dispensing and administering of drugs, devices, and controlled paraphernalia to persons 18 years of age or older, in accordance with protocols developed by the Board of Pharmacy in collaboration with the Board of Medicine and the Department of Health, and of (i) vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention; (ii) tuberculin purified protein derivative for tuberculosis testing; (iii) controlled substances for the prevention of human immunodeficiency virus, including controlled substances prescribed for pre-exposure and post-exposure prophylaxis pursuant to guidelines and recommendations of the Centers for Disease Control and Prevention; and (iv) drugs, devices, controlled paraphernalia, and other supplies and equipment available over-the-counter, covered by the patient's health carrier when the patient's out-of-pocket cost is lower than the out-of-pocket cost to purchase an over-the-counter equivalent of the same drug, device, controlled paraphernalia, or other supplies or equipment. The bill requires any pharmacist who administers a vaccination pursuant to clause (i) to report such administration to the Virginia Immunization Information System. The bill also (a) requires the Board of Pharmacy, in collaboration with the Board of Medicine and the Department of Health, to establish protocols for the initiation of treatment with and dispensing and administering of drugs, devices, and controlled paraphernalia by pharmacists in accordance with the provisions of the bill by November 1, 2021; (b) requires the Board of Pharmacy, in collaboration with the Board of Medicine, to adopt regulations within 280 days of the bill's enactment to implement the provisions of the bill; and (c) requires the Board of Pharmacy to continue the work group composed of equal number of representatives of the Boards of Pharmacy and Medicine and other stakeholders to provide recommendations regarding the

developing of protocols for the initiation of treatment with and dispensing and administering of certain drugs and devices by pharmacists to persons 18 years of age or older.

**HB 2116 Declared states of emergency, certain; funeral service licensees designated as essential workers.**

*Chief patron:* Mugler

*Summary as introduced:*

**Certain declared states of emergency; essential workers; funeral service licensees; emergency.** Provides that in any case in which the Governor has declared a state of emergency related to a communicable disease of public health threat, funeral service licensees shall be considered essential workers and shall be included in any group afforded priority with regard to (i) access to personal protective equipment and (ii) administration of any vaccination against such communicable disease of public health threat during such emergency. The bill contains an emergency clause.

EMERGENCY

**HB 2218 Pharmaceutical processors; permits processors to produce & distribute cannabis products.**

*Chief patron:* Hayes

*Summary as introduced:*

**Pharmaceutical processors; cannabis products.** Permits pharmaceutical processors to produce and distribute cannabis products other than cannabis oil. The bill defines the terms "botanical cannabis," "cannabis product," and "usable cannabis." The bill requires the Board of Pharmacy to establish testing standards for botanical cannabis and botanical cannabis products, establish a registration process for botanical cannabis products, and promulgate emergency regulations to implement the provisions of the bill. The bill allows the Board of Pharmacy to assess and collect a one-time botanical cannabis regulatory fee from each pharmaceutical processor, not to exceed \$50,000, to cover costs associated with the implementation of the provisions of the bill, including costs for new personnel, training, promulgation of regulations and guidance documents, and information technology.

**HB 2220 Surgical technologist; certification, use of title.**

*Chief patron:* Hayes

*Summary as introduced:*

**Surgical technologist; certification; use of title.** Provides that that no person shall hold himself out to be a surgical technologist or use or assume the title of "surgical technologist" or "certified surgical technologist" unless such person is certified by the Board of Medicine; currently, a person must be registered with the Board of Medicine to use the title "registered surgical technologist." The bill also (i) adds a requirement that an applicant whose certification is based on his holding a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting also demonstrate that he has successfully completed an accredited surgical technologist training program and (ii) provides that the Board of Medicine may certify a person who has practiced as a surgical technologist at any time in the six months prior to July 1, 2021, provided that he registers with the Board of Medicine by December 31, 2021.

**HB 2241 Unborn child protection from dismemberment abortion; penalties.**

*Chief patron:* LaRock

*Summary as introduced:*

**Unborn child protection from dismemberment abortion; penalties.** Prohibits the practice of dismemberment abortion, which is defined in the bill as meaning to, with the purpose of causing the death of an unborn child, purposely dismember a living unborn child and extract him one piece at a time from the uterus through the use of clamps, grasping forceps, tongs, scissors, or any other instrument that, through the convergence of two rigid levers, slice, crush, or grasp a portion of the unborn child's body to cut or rip such portion of the unborn child's body. The term does not include an abortion that uses suction to dismember the body of an unborn child by sucking fetal parts into a collection container, but it does include an abortion in which a dismemberment abortion is used to cause the death of an unborn child but suction is subsequently used to extract fetal parts after the death of the unborn child. The bill provides that a person who purposely performs a dismemberment abortion is guilty of a Class 4 felony. A cause of action is also created for injunctive relief and civil damages. An exception is made when a dismemberment abortion is necessary to prevent serious health risk to the unborn child's mother.

**HB 2259 Governor; issuance of licenses to persons denied by regulatory board.**

*Chief patron:* Scott

*Summary as introduced:*



**Professions and occupations; licensure by Governor.** Provides that the Governor may issue a license of the kind granted by a regulatory board under the Department of Professional and Occupational Regulation or the Department of Health Professions to any person whose application for such license to such board has been denied.

**HB 2272 Naturopathic doctors; Department of Health Professions to amend its regulations.**

*Chief patron:* Fowler

*Summary as introduced:*

**Department of Health Professions; naturopathic doctors.** Directs the Department of Health Professions to amend its regulations to require that a person complete a four-year accredited doctoral program in naturopathy and pass the naturopathy examination administered by the Virginia Naturopathic Doctors Association in order to use the title "Naturopathic Doctor" or "ND." The bill requires the Department to collaborate with the Virginia Naturopathic Doctors Association to draft and implement regulations related to the scope of practice of naturopathic doctors in the Commonwealth.

**HJ 531 Interstate Medical Licensure Compact; Joint Com. on Health Care to study advisability of joining.**

*Chief patron:* Helmer

*Summary as introduced:*

**Study; Joint Commission on Health Care; advisability of the Commonwealth's joining the Interstate Medical Licensure Compact; report.** Directs the Joint Commission on Health Care to study the advisability of the Commonwealth's joining the Interstate Medical Licensure Compact (the Compact), including the legal effects of joining of the Compact in the Commonwealth and possible positive and negative outcomes resulting from the adoption of the Compact, and develop recommendations as to whether the Commonwealth should join the Compact. The Joint Commission on Health Care shall complete its work by November 30, 2021, and submit an executive report of its findings and conclusions no later than the first day of the 2022 Regular Session of the General Assembly.

**SB 1107 Medical malpractice; limitation on recovery.**

*Chief patron:* Stanley

*Summary as introduced:*

**Medical malpractice; limitation on recovery.** Eliminates the cap on the recovery in actions against health care providers for medical malpractice where the act or acts of malpractice occurred on or after July 1, 2021.

**SB 1115 Industrial hemp; increases maximum THC concentration.**

*Chief patron:* Peake

*Summary as introduced:*

**Industrial hemp; increase maximum THC concentration.** Increases the maximum tetrahydrocannabinol (THC) concentration in industrial hemp from the maximum allowed by federal law to the maximum allowed by federal law or one percent, whichever is greater. The bill expands the definition of "hemp product" to include raw materials of any part of the plant *Cannabis sativa* and omits from such definition the requirement that the product be otherwise lawful.

**SB 1167 Nursing, Board of; licensure or certification by endorsement for members of the U.S. military.**

*Chief patron:* Kiggans

*Summary as introduced:*

**Board of Nursing; licensure or certification by endorsement for members of the United States military.** Permits the Board of Nursing to issue licenses and certifications by endorsement for registered nurses, licensed practical nurses, and certified nurse aides who hold a similar or equivalent license or certification from the medical corps of a branch of the United States military.

**SB 1178 Genetic counseling; repeals conscience clause.**

*Chief patron:* Ebbin

*Summary as introduced:*

**Genetic counseling; conscience clause.** Repeals the conscience clause for genetic counselors who forgo participating in counseling that conflicts with their deeply held moral or religious beliefs, provided that they inform the patient and offer to direct the patient to the online directory of licensed genetic counselors maintained by the Board of Medicine. The law being repealed also prohibits the licensing of any genetic counselor from being contingent upon participating in such counseling.

**SB 1187 Physical therapy; extends time allowed for a therapist to evaluate and treat patients.**

*Chief patron:* Hashmi

*Summary as introduced:*

**Department of Health Professions; practice of physical therapy.** Extends from 30 days to 60 days the time allowed for a physical therapist who has completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has obtained a certificate of authorization to evaluate and treat patients after an initial evaluation without a referral under certain circumstances. The bill also provides that after discharging a patient a physical therapist shall not perform an initial evaluation of a patient without a referral if the physical therapist has performed an initial evaluation of the patient for the same condition within the immediately preceding 60 days.

**SB 1189 Occupational therapists; licensure.**

*Chief patron:* Hashmi

*Summary as introduced:*

**Licensure of occupational therapists; Occupational Therapy Interjurisdictional Licensure Compact.** Authorizes Virginia to become a signatory to the Occupational Therapy Interjurisdictional Licensure Compact. The Compact permits eligible licensed occupational therapists and occupational therapy assistants to practice in Compact member states provided they are licensed in at least one member state. The bill has a delayed effective date of January 1, 2022, and directs the Board of Medicine to adopt emergency regulations to implement the provisions of the bill. The Compact takes effect when it is enacted by a tenth member state.

**SB 1192 Naturopathic doctors; Department of Health Professions to amend its regulations.**

*Chief patron:* Kiggans

*Summary as introduced:*

**Department of Health Professions; naturopathic doctors.** Directs the Department of Health Professions to amend its regulations to require that a person complete a four-year accredited doctoral program in naturopathy and pass the naturopathy examination administered by the Virginia Naturopathic Doctors Association in order to use the title "Naturopathic Doctor" or "ND." The bill requires the Department to collaborate with the Virginia Naturopathic Doctors Association to draft and implement regulations related to the scope of practice of naturopathic doctors in the Commonwealth.

**SB 1205 Career fatigue and wellness in certain health care providers; programs to address, civil immunity.**

*Chief patron:* Barker

*Summary as introduced:*

**Programs to address career fatigue and wellness in certain health care providers; civil immunity.** Expands civil immunity for health care professionals serving as members of or consultants to entities that function primarily to review, evaluate, or make recommendations related to health care services to include health care professionals serving as members of or consultants to entities that function primarily to address issues related to career fatigue and wellness in health care professionals licensed, registered, or certified by the Boards of Medicine, Nursing, or Pharmacy, or in students enrolled in a school of medicine, osteopathic medicine, nursing, or pharmacy located in the Commonwealth. The bill contains an emergency clause.

EMERGENCY

**SB 1218 Naturopathic doctors; license required.**

*Chief patron:* Petersen

*Summary as introduced:*

**Naturopathic doctors; license required.** Requires the Board of Medicine to license and regulate naturopathic doctors. The practice of naturopathic medicine is defined in the bill as (i) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injury, and disease and (ii) the use of both naturopathic and traditional medical therapies to promote or restore whole patient health. The bill also establishes the Advisory Board on Naturopathic Medicine to assist the Board of Medicine in formulating regulations related to the practice of naturopathic medicine.

**SB 1268 Disposition of the remains of a decedent; persons to make arrangements for funeral.**

*Chief patron:* Deeds

*Summary as introduced:*

**Disposition of the remains of a decedent; persons to make arrangements for funeral and disposition of remains.** Establishes an order of priority for persons who have the right to make

arrangements and otherwise be responsible for a decedent's funeral and the disposition of his remains, provided that any such person is 18 years of age or older and of sound mind. The bill sets out, among other things, the circumstances under which such persons forfeit the right to make arrangements and otherwise be responsible for a person's funeral and the disposition of his remains and sets out assertions that a person seeking to exercise the right to make such arrangements must attest to in a signed written statement to be delivered to the funeral service establishment. Any funeral service establishment, funeral service establishment manager of record, funeral service licensee, funeral director, embalmer, registered crematory, registered crematory owner, registered crematory manager of record, or certified crematory operator that relies upon such a written statement shall be immune from civil or criminal liability for any act, decision, or omission in connection with following such person's direction related to the decedent's funeral and the disposition of his remains, unless such act, decision, or omission resulted from willful neglect or bad faith. The bill sets out rights of funeral service establishments when there is a dispute regarding the arrangements of a decedent's funeral or his remains or the identity of any persons who have the right to make arrangements for the decedent. The bill specifies that the provisions do not apply to cemeteries or cemetery companies.

**SB 1320 Licensed certified midwives; definition of practice, licensure, report.**

*Chief patron:* Lucas

*Summary as introduced:*

**Licensed certified midwives; licensure; practice.** Defines "practice of licensed certified midwifery" and directs the Boards of Medicine and Nursing to establish criteria for the licensure and renewal of a license as a certified midwife. The bill also directs the Department of Health Professions to convene a workgroup to study the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals. The Department shall report its findings and conclusions to the Governor and the General Assembly by November 1, 2021.

**SB 1333 Pharmaceutical processors; permits processors to produce & distribute cannabis products.**

*Chief patron:* Lucas

*Summary as introduced:*

**Pharmaceutical processors; cannabis products.** Permits pharmaceutical processors to produce

and distribute cannabis products other than cannabis oil. The bill defines the terms "botanical cannabis," "cannabis product," and "usable cannabis." The bill requires the Board of Pharmacy to establish testing standards for botanical cannabis and botanical cannabis products, establish a registration process for botanical cannabis products, and promulgate emergency regulations to implement the provisions of the bill. The bill allows the Board of Pharmacy to assess and collect a one-time botanical cannabis regulatory fee from each pharmaceutical processor, not to exceed \$50,000, to cover costs associated with the implementation of the provisions of the bill, including costs for new personnel, training, promulgation of regulations and guidance documents, and information technology.

training, promulgation of regulations and guidance documents, and information technology.

**SB 1406 Marijuana; legalization of simple possession; penalties.**

*Chief patron:* Ebbin, Lucas

*Summary as introduced:*

**Marijuana; legalization of simple possession; penalties.** Eliminates criminal penalties for possession of marijuana for persons who are 21 years of age or older. The bill also modifies several other criminal penalties related to marijuana and provides for an automatic expungement process for those convicted of certain marijuana-related crimes. The bill establishes a regulatory scheme for the regulation of marijuana cultivation facilities, marijuana manufacturing facilities, marijuana testing facilities, marijuana wholesalers, and retail marijuana stores by the Virginia Alcoholic Beverage Control Authority, renamed as the Virginia Alcoholic Beverage and Cannabis Control Authority. The bill imposes a tax on retail marijuana, retail marijuana products, and marijuana paraphernalia sold by a retail marijuana store, as well as non-retail marijuana and non-retail marijuana products at a rate of 21 percent and provides that localities may by ordinance levy a three percent tax on any such marijuana or marijuana products. The bill provides that net profits attributable to regulatory activities of the Authority's Board of Directors pursuant to this bill shall be appropriated as follows: (i) 40 percent to pre-kindergarten programs for at-risk three and four year olds, (ii) 30 percent to the Cannabis Equity Reinvestment Fund, established in the bill, (iii) 25 percent to substance use disorder prevention and treatment programs, and (iv) five percent to public health programs. The bill creates the Cannabis Control Advisory Board, the Cannabis Equity Reinvestment Board, and the Cannabis Public Health Advisory Council. The bill has a delayed effective date of January 1, 2023, with provisions for the Authority's Board of Directors to promulgate regulations for the implementation of the bill and for implementation of the automatic expungement process to begin in due course. In addition, the bill establishes three work groups to begin their efforts in due course: one focused on public health and safety issues, one focused on providing resources for teachers in elementary and secondary schools, and one focused on college-aged individuals. See S. B. 1406 PDF text: <https://lis.virginia.gov/000/CannabisBill.pdf>

**SB 1408 Joint Commission on Health Care; sunset.**

*Chief patron:* Barker

*Summary as introduced:*

**Joint Commission on Health Care; sunset.** Repeals the sunset provision for the Joint Commission on Health Care.

**SB 1424 Funeral service establishments; manager of record.**

*Chief patron:* Cosgrove

*Summary as introduced:*

**Funeral service establishments; manager of record.** Defines "manager of record" as a person who manages and handles all operations of a licensed funeral service establishment and sets out the conditions under which a funeral service licensee or a funeral director may serve as a manager of record. The bill requires that funeral service establishments employ a full-time manager of record.

**SB 1446 Practice of medicine and other healing arts; provision of litigation assistance.**

*Chief patron:* Surovell

*Summary as introduced:*

**Practice of medicine and other healing arts; provision of litigation assistance.** Requires practitioners of medicine and other healing arts to provide litigation assistance to treated patients and their attorneys. Such litigation assistance includes providing a legal consult fee schedule upon request, scheduling and participating in meetings with a treated patient's attorney upon request, participating in trial or de bene esse depositions as needed, and providing a written estimate of the cost of the patient's medical services related to the litigation.

*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 5, 2020**

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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 2021, 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 handling fee for a returned check or a dishonored credit card or debit card shall be \$50.
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 Point Location Examination; 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. Dietary supplements.**

A. The recommendation or direction for the use of dietary 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. Dietary supplements, used singly or in combination, 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 dietary 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.