

REQUEST FOR TECHNICAL CHANGE

AGENCY: Acupuncture Licensing Board

RULE CITATION: 21 NCAC 01 .0104

DEADLINE FOR RECEIPT: March 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 4, please consider saying something like "The **In addition to the definitions contained in G.S. 90-451, the** following **definitions** shall apply throughout this Chapter." I suggest this to make it clear to the reader that additional definitions may apply.*

Given G.S. 90-458, most of Item (1) seems unnecessary. If you determine that you need this definition, it appears as though there is an attempt at rewording 90-458 – please consider simply providing a cross-reference to 90-458. Please note that 150B-19(4) prohibits rules that "repeat the content of a law, rule, or federal regulation."

*In Item (1), **what is your statutory authority for the sentences on lines 6-7?** What if the other state does allow an acupuncturist to be called a doctor and the individual keeps that license? How can this Board invalidate the title? Please note that 90-458 does not contain this language.*

Please confirm that Item (2) conforms to G.S. 90-451(3) and falls within the definition of "adjunctive therapies" contained therein.

In Item (3), what is meant by "listening, smelling, inquiring" and "five element correspondence"? Are these taught in an acupuncture course of study such that your regulated public is familiar with these terms?

In Item (4), do you mean that the acupuncture needle is defined by 21 CFR 880.5580 and includes the intradermal, ...and prismatic needles? If so, please incorporate the CFR by reference in accordance with 150B-21.6. Consider revising as follows:

"Acupuncture needles" mean the same as in 21 CFR 880.5580, which is hereby incorporated by reference, including subsequent amendments and editions, and can be found at <https://www.gpo.gov/fdsys/pkg/CFR-2016-title21-vol8/xml/CFR->

Amber May
Commission Counsel

Date submitted to agency: February 26, 2018

[2016-title21-vol8-sec880-5580.xml](#) at no cost. Acupuncture needles include intradermal, plum blossom, press tacks, and prismatic needles.

In Item (5), please incorporate the FDA guidelines in accordance with 150B-21.6. Please note that you must say what the guidelines are, where they can be found, whether you wish to include subsequent amendments and additions, and at what cost.

Is there a difference between “medical qi gong” in Item (8) and “qi gong” in Item (9)? Is your regulated public familiar with the difference such that there is no clarity concern?

In Item (10), please be sure to format any punctuation changes in accordance with 26 NCAC 02C .0108(7). Specifically, please treat punctuation as part of the word that precedes it. For example, on line 35, please note “packs_” should be “packs and laser acupuncture. packs.”

In Item (10), what guidelines are being referred to? Are they the same as in Item (6)? If not, please provide the specific FDA Guideline and incorporate by reference in accordance with 150B-21.6.

Please correct your History Note to reflect the following:

*History Note: Authority G.S. 90-451(3); 90-454;
Eff. July 1, 1995; 1995;
Readopted Eff. April 1, 2018.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: February 26, 2018

21 NCAC 01.0104 is readopted with changes as published in 31:24 NCR 2482 as follows:

21 NCAC 01 .0104 DEFINITIONS

The following definitions shall apply throughout this Chapter:

- (1) The title of "Licensed Acupuncturist" or "Acupuncturist" is the title conveyed by North Carolina Acupuncture Licensing Board pursuant to Article 30 of Chapter 90 of the North Carolina General Statutes. A Licensed Acupuncturist or Acupuncturist cannot use a licensure title from another state to refer to him or herself as a doctor. Licensed Acupuncturists or Acupuncturists may only refer to him or herself as a doctor in the state of North Carolina, if he or she has earned an educational degree of "doctor" or "doctorate."
- (1) (2) "Acupuncture adjunctive therapies" include ~~but are not limited to auricular, nose, face, hand, foot, and scalp acupuncture therapy; and the adjunctive therapies listed in G.S. 90-451(3).~~ It also includes stimulation to acupuncture points and channels by any of the following: ~~needles,~~ cupping, thermal methods, magnets, and gwa-sha scraping techniques.
- (2) (3) "Acupuncture diagnostic techniques" include ~~but are not limited to~~ the use of observation, listening, smelling, inquiring, palpation, pulse diagnosis, tongue diagnosis, hara diagnosis, physiognomy, five element correspondence, ryodoraku, akabani, and electro-acupuncture.
- (3) (4) "Acupuncture needles" mean solid filiform needles and include ~~but are not limited to~~ intradermal, plum blossom, press tacks, and prismatic needles, as defined by in 21 CFR 880.5580 or as subsequently amended or recodified.
- (4) (5) "Dietary guidelines" include ~~but are not limited to~~ nutritional counseling and the recommendation of food and supplemental substances.
- (5) (6) "Electrical stimulation" includes ~~but is not limited to~~ the treatment or diagnosis of energetic imbalances using TENS, Piezo electrical stimulation, acuscope therapy, auricular therapy devices, and percutaneous and transcutaneous electrical nerve stimulation and Class IIIa, 5 milliwatt laser devices. All laser devices shall be administered in accordance with FDA guidelines, including 21 CFR §§1040.10 and 1040.11.
- (6) (7) "Herbal medicine" includes ~~but is not limited to~~ tinctures, patent remedies, decoction, powders, diluted herbal remedies, freeze dried herbs, salves, poultices, medicated oils, and liniments.
- (7) (8) "Massage and manual techniques" include ~~but are not limited to~~ acupressure, shiatsu, Tui-Na, qi healing, and medical qi gong.
- (8) (9) "Therapeutic exercise" includes ~~but is not limited to~~ qi gong, Taoist self-cultivation exercises, dao yin, tai qi chuan, ba gua, and meditative exercises.
- (9) (10) "Thermal methods" include ~~but are not limited to moxibustion, moxibustion and~~ hot and cold packs, ~~and laser acupuncture.~~ All acupuncture devices shall be administered in accordance with Federal Drug Administration guidelines.

History Note: Authority G.S. 90-451(3); ~~G.S.~~ 90-454; Eff. July 1, 1995. Readopted by Agency August 27, 2017

REQUEST FOR TECHNICAL CHANGE

AGENCY: Acupuncture Licensing Board

RULE CITATION: 21 NCAC 01 .0201

DEADLINE FOR RECEIPT: March 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In Item (1), if you want to say that a license is valid for two years, and the licensee is responsible for renewing the license by July 1 every two years thereafter, please consider simplifying the language. A suggestion would be something like "A licensee shall renew his or her license by July 1 every two years following initial licensure." If you do not choose to use this suggestion, please at least delete one of the "thereafter" either on line 6 or 7.

In (2), 90-455(b)(1) does not set forth the requirements of the form, so I'm not sure that I understand the cross-reference here. Are the only requirements of the form that the licensee provide the CEU information? If so, please see the suggestion below to make this clear.

In (2), since .0301(m) deals specifically with records retention, is the records information necessary here? Also, since .0301 deals with CEUs overall, would it be appropriate to cross-reference the entire Rule here? Please consider revising as follows:

An applicant for license renewal shall verify on a renewal form prepared by the Board ~~[pursuant to G.S. 90-455 (b)(1)]~~ that the licensee has completed the required continuing education units, units in accordance with Rule .0301 of this Chapter. The renewal form shall include units, the number of units ~~completed, completed~~ and a list of those programs completed. ~~The licensee must retain such receipts, vouchers or certificates as may be necessary to document completion of the continuing education units required. An applicant [A licensee] must [shall] retain records to establish that the applicant [licensee] has fulfilled the educational requirements set by the Board. [Board, pursuant to Rule .0301(m) of this Chapter.]~~

If you choose to use the suggested language, please ensure the accuracy of the language. It is never my intention to change the meaning of your Rule.

What is the intent of Item (4)? Is it to say that if someone is suspended, they still have to file a renewal application every 2 years (even if their license is suspended during that time) and meet the CEU requirements? I just want to be sure that I understand.

Amber May
Commission Counsel
Date submitted to agency: February 26, 2018

Overall, given 90-452 and 90-455, is any of (5) necessary?

In Item (5), given the requirement for a license to practice acupuncture and G.S. 90-452, is it necessary to say that the “practice of acupuncture with an expired license is unlawful and prohibited”?

In Item (5), what is the overall intent of “Failure to receive notification that a license has expired does not relieve the holder of an expired license of the responsibility of meeting the continuing education requirements that would have been required if the license had continued to be in effect. These continuing education units will not apply to the renewal requirements for the subsequent renewal period”? I don’t understand what is going on here as these provisions seem to potentially contradict each other. Please clarify.

Line 23, what are “these continuing education units”? Do you mean the courses taken while the license was expired? Is the intent that any courses taken while a license is expired will not count toward the continuing education requirements in the next renewal period? If so, please make this more clear.

In Item (5), lines 24-28 appear to recite 90-455(e). Is this necessary?

Lines 28-30 appear to address the same information set forth in 90-455(c), (e), and (f), is this necessary?

On line 30, please change “are deemed” to “shall be deemed”

Please note that all authority should be together in your History Note, then any effective dates should be provided in chronological order. Please correct your History Note to reflect the following:

*History Note: Authority G.S. 90-454; 90-455;90-457.1
Eff. December 1, 1995;
Amended Eff. August 1, 2007;
Readopted Eff. April 1, 2018.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: February 26, 2018

21 NCAC 01.0201 is adopted as published in 31:24 NCR 2482 as follows:

21 NCAC 01 .0201 RENEWAL OF LICENSURE

The procedure and requirements for renewal of license are as follows:

- (1) Biennial Renewal. A licensee ~~must~~ shall renew his or her license by the second July 1 following initial licensure and thereafter renew his or her license ~~prior to expiration every two years by July 1 every two years thereafter.~~
- (2) Continuing Education. An applicant for license renewal shall verify on a renewal form prepared by the Board pursuant to G.S. 90-455 (b)(1) that the licensee has completed the required continuing education units, the number of units completed, and a list of those programs completed. ~~The licensee must retain such receipts, vouchers or certificates as may be necessary to document completion of the continuing education units required. An applicant~~ A licensee must shall retain records to establish that the ~~applicant~~ licensee has fulfilled the educational requirements set by the ~~Board.~~ Board, pursuant to Rule .0301(m) of this Chapter.
- (3) Fees. The licensee ~~must~~ shall pay the renewal fee prescribed in Rule .0103 of this Chapter.
- (4) Suspended license. The holder of a suspended license ~~must~~ shall meet the ~~prescribed~~ renewal requirements pursuant to G.S. 90-455(b) and this Rule for the duration of the suspension or the license shall ~~expire.~~ expire pursuant to G.S. 90-457.1 (e).
- (5) Expired license. ~~He or she must not practice acupuncture with an expired license. The practice of~~ acupuncture with an expired license is unlawful and prohibited. Failure to receive notification that ~~the~~ a license has expired ~~during this period~~ does not relieve the holder of an expired license of the responsibility of meeting the continuing education requirements that would have been required if the license had continued to be in effect. These continuing education units will not apply to the renewal requirements for the subsequent renewal period. ~~To~~ In order to renew an expired license pursuant to G.S. 90-455(e), the applicant must shall file the ~~approved application,~~ renewal form prepared by the Board, submit proof of completion of continuing education, and pay the ~~renewal~~ late license renewal (additional) fee resulting from the expired license as well as the ~~required~~ renewal of biennial licensing fee. Expired licenses not renewed within two years after the license expired or not reactivated within eight years after the license is placed on inactive status, pursuant to G.S. 90-455(c), are deemed lapsed, pursuant to G.S. 90-455(f).

History Note: Authority G.S. 90-455; Eff. December 1, 1995; Amended Eff. August 1, 2007, 2007; G.S 90-454: Eff. July 1, 1995; G.S. 90-457.1; Eff. September 8, 2005.
Readopted by Agency August 27, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Acupuncture Licensing Board

RULE CITATION: 21 NCAC 01 .0301

DEADLINE FOR RECEIPT: March 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a), by “applicants for license renewal”, do you mean “licensees”? Licensees seems to be more accurate here and that is the term used elsewhere in this Rule.

*Given 90-457.1, is (b) necessary? If it is, what is your authority to say that the CEUs shall be completed prior to the license renewal **deadline** or **date on which the license renewal is approved by the Board**? 90-457.1(a) says that the CEUs must be completed “during the two calendar years preceding the **license renewal date**.”*

If you do have authority and it is necessary, in (b)(1), when is the “license renewal deadline”? Is there a cross-reference available? Also, what is meant by (b)(2)?

Please consider switching (c) and (d) so that it is clear what is meant by a “formally organized course.”

(c)(1) seems rather complicated – is the intent to say that out of the 40 CEUs, 15 hours must be related to acupuncture, but not adjunctive therapies, and 10 may be related to adjunctive therapies, but don’t have to be? If they aren’t related to adjunctive therapies, what else could they be? Then the remaining 15 hours can be anything contained in (c)(2)? If this is the intent of (c) (particularly (c)(1)), please make it more clear as I’m not exactly sure what is being required.

Please remove the space between 90-451 and (1) on line 13.

In (c)(2), do you mean “shall be comprised”? If you mean “may”, what are the other options?

In (c)(2)(C), why is the cross reference to (d) here? If you choose not to switch (c) and (d) to put the definition of “formally organized course first”,

Amber May
Commission Counsel
Date submitted to agency: February 26, 2018

then please provide this cross-reference at the first mention of "formally organized course" in (c).

Please consider moving (d)(3) and (4) to the beginning since they seem to go with the lead in language. It would look like this:

A course submitted to the Board for credit as CEUs shall be formally organized. A formally organized course shall: ~~shall consist of the following:~~

- (1) Have stated course objectives and a course syllabus or a description of the content of the course with a class outline;
 - (2) Be evaluated by each participant on an evaluation form provided by the instructor; and
 - (3) Upon completion of each course, the provider shall issue a certificate of completion to each participant to include:
 - (A) The title of the course;
 - (B) The name of the participant;
 - (C) The name of all instructors;
 - (D) The name of the provider;
 - (E) The date and location of the course; and
 - (F) The number of CEUs completed.
- ~~(4) (4) A record of attendance maintained on file by the sponsor of the course. The sponsor shall maintain a record of attendance for four years. This record shall be made available to the Board upon request; request, based upon the power granted to the Board pursuant to G.S. 90-454(2);~~
- ~~(2) For a course taught by an instructor who is required by the State to hold a credential to practice in the field which is the subject of the course, the credential of that instructor shall be in good standing and any instructor shall be competent to teach his or her designated course by virtue of his or her education, training, and experience;~~
- ~~[(2)](5) The instructor shall hold credentials to practice and be permitted to perform acupuncture needling techniques for the purposes of demonstration in the field that is the subject of the course or the instructor shall be competent to teach the designated course by virtue of his or her education, training, and experience, as determined by the Board pursuant to G.S. 90-457.1(b);~~
- ~~(3) The course shall have stated course objectives and a course syllabus or a description of the content of the course with a class outline;~~
- ~~(4) The course shall be evaluated by each participant; [participant on an evaluation form provided by the instructor;] and~~
- ~~(5) Upon completion of each course course, the provider shall issue a certificate of completion to each participant to include:~~
 - ~~(A) Title [The title] of the course;~~
 - ~~(B) Name [The name] of [the] participant;~~
 - ~~(C) Name [The name] of all instructors;~~
 - ~~(D) Name [The name] of [the] provider;~~
 - ~~(E) Date [The date] and location of the course; and~~
 - ~~(F) Number [The number] of CEU's [CEUs] completed.~~

Amber May
Commission Counsel
Date submitted to agency: February 26, 2018

In (d)(1), please consider deleting “based upon the power granted to the Board pursuant to G.S. 90-454(2)” since you all have this in your History Note. Under what circumstances will the Board make this request? Please provide some factors as to how the Board will make this determination.

In (d)(2), what does “and be permitted to perform acupuncture needling techniques for the purposes of demonstration” mean?

In (d)(2), please either delete “as determined by the Board pursuant to G.S. 90-457.1(b) or provide the basis and factors that the Board will use in making this determination. I understand that 90-457.1(b) gives the Board the authority to approve courses, but it does not say how the Board will do this.

In (d)(4), what are the required substantive contents of the form? Is this left exclusively to the instructor? If so, it’s fine as written.

In (e), how do the 2 CEUS fit into the total 40 hours required? Do they fall into the category of (c)(1) or (c)(2) or are they an entirely different requirement? Also, what is meant by “maintaining”? Is this determined by an outside organization (like the Red Cross)? Please provide some additional information. Also, please change “are granted” to “shall be granted”

How do (f), (g), (h), (i), and (j) fit into the CEU requirements? Perhaps there is a different way of organizing this Rule to make it more clear? If the intent of Paragraphs (e) through (i) is to further explain (c)(2), why do you need (c)(2)?

In (f), how is it determined how much credit a research project will receive? I assume that the “research project” in the second sentence is the same as “research studies” in the first? Please be consistent with your language to make it clear that it is not something different.

In (f), please define “accredited hospitals or educational institutions” BY whom will these need to be accredited? Also, what do you mean on lines 10-11? That even if the project spans 4 years, it can only be submitted for one renewal period?

In (f), line 12, what is the Board basing the approval upon?

In (f)(3), please delete or define “primary”

In (g) and (h), lines 18 and 21, please change “are” to “shall be.” Also, do you mean that one CEU shall be awarded for every three hours of teaching? If so, please say that.

In (h), line 20, please say “Board” rather than NCALB for purposes of consistency.

In (h), how is it determined how much credit a research project will receive and who will make this determination?

In (h), how is this approved? What is the Board basing approval upon? And is there a timeline to submit this in, rather than simply "prior"?

In (h), line 22, submit this information to whom?

In (h)(5), how can there be total number of hours taught if this is pre-approval as stated on line 20?

In (j), please show the change from 10 to 28 CEUs.

What is meant by (k)?

In (l), I don't understand the cross-reference to 90-457.1(d). Do you mean this Rule?

In (o), this is a verbatim recitation of G.S. 90-457.1(e). Why do you need it here?

In (p), please provide a cross-reference to your disciplinary actions Rule or statute.

In (q), to ensure that there are no inconsistencies with the pertinent statute, please consider saying something like "A licensee may apply to the Board for an extension of time to complete continuing education requirements in accordance with G.S. 90-457.1(f)."

In the History Note, please correct your readoption date to April 1, 2018.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: February 26, 2018

21 NCAC 01 .0301 has been readopted with changes as published in 31:24 NCR 2482 as follows:

21 NCAC 01 .0301 STANDARDS FOR CONTINUING EDUCATION

(a) Applicants for license renewal shall complete 40 Continuing Education Units (CEU) every two years. One CEU is defined as one contact hour or 50 minutes.

(b) All CEUs shall be completed during the two calendar years ~~immediately~~ preceding the:

(1) License renewal ~~date~~, deadline; or

(2) Date on which the license renewal is approved by the Board.

(c) The following requirements shall apply to the total number of CEUs submitted by a licensee for license renewal:

(1) A minimum of 25 CEUs ~~must shall~~ be obtained from formally organized courses ~~which that~~ have content relating to the scope of practice of acupuncture as defined by G.S. 90-451(3). Fifteen of these 25 hours shall contain course content relating to the practice of acupuncture as defined by G.S. 90-451 (1), not including adjunctive therapies as defined in the second sentence of G.S.90-451(3) and Rule .0104(2) of this Chapter. The remaining 10 hours of instruction in formally organized courses may be obtained from course content including adjunctive therapies. Each course shall be sponsored or approved by one or more of the following organizations or their successor organizations:

(A) ~~National Acupuncture and Oriental Medicine Alliance (NAOMA);~~ Acupuncture schools in candidacy status or accredited by American College of Acupuncture and Oriental Medicine (ACAOM);

(B) ~~Association of Acupuncture and Oriental Medicine (AAOM);~~ National Certification Commission for Acupuncture and Oriental Medicine;

(C) ~~Council of Colleges of Acupuncture and Oriental Medicine (CCAOM);~~ The Society for Acupuncture Research;

(D) ~~Acupuncture Schools Accredited By or in Candidacy Status with the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM);~~ National Acupuncture Detoxification Association;

(E) ~~National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM);~~ American Academy of Medical Acupuncture (AAMA); or

(F) ~~National Academy of Acupuncture and Oriental Medicine (NAAOM);~~ North Carolina Acupuncture Licensing Board.

(G) ~~Society for Acupuncture Research;~~

(H) ~~National Acupuncture Detoxification Association;~~

(I) ~~American Academy of Medical Acupuncture (AAMA);~~

(J) ~~The acupuncture licensing board of another State;~~

(K) ~~North Carolina Association of Acupuncture and Oriental Medicine (NCAAOM);~~

(L) ~~American Heart Association; or~~

- 1 (M) ~~— American Red Cross.~~
- 2 ~~(2) — A maximum of 15 CEUs may be obtained from teaching acupuncture diagnosis and treatment. All~~
- 3 CEUs for teaching shall be approved by the Board prior to the date of the class and awarded for
- 4 actual classroom hours taught pursuant to this Rule. For approval the licensee shall submit the
- 5 following information:
- 6 (A) ~~— Title of the course;~~
- 7 (B) ~~— Summary of course content or class syllabus;~~
- 8 (C) ~~— Location of the class;~~
- 9 (D) ~~— Dates of the class;~~
- 10 (E) ~~— Number of classroom hours taught; and~~
- 11 (F) ~~— Copy of course evaluation to be provided students.~~
- 12 (2) ~~The remaining 15 CEUs may be comprised of any combination of the following:~~
- 13 (A) up to 15 CEUs of formally organized courses that relate to either acupuncture or the
- 14 adjunctive therapies;
- 15 (B) up to 10 CEUs for acupuncture or Chinese medicine research;
- 16 (C) up to 10 CEUs for teaching of Chinese medicine in a formally organized course as
- 17 defined in .0301(d) below; or
- 18 (D) up to 10 CEUs for published work in peer-reviewed journals.
- 19 (d) A course submitted to the Board for credit as CEUs shall be formally organized. A formally organized course
- 20 shall consist of the following:
- 21 (1) ~~A record of attendance maintained on file by the sponsor of the course. The sponsor shall maintain~~
- 22 a record of attendance for four years. This record shall be made available to the Board upon
- 23 ~~request; request, based upon the power granted to the Board pursuant to G.S. 90-454(2);~~
- 24 ~~(2) — For a course taught by an instructor who is required by the State to hold a credential to practice in~~
- 25 ~~the field which is the subject of the course, the credential of that instructor shall be in good~~
- 26 ~~standing and any instructor shall be competent to teach his or her designated course by virtue of~~
- 27 ~~his or her education, training, and experience;~~
- 28 (2) The instructor shall hold credentials to practice and be permitted to perform acupuncture needling
- 29 techniques for the purposes of demonstration in the field that is the subject of the course or the
- 30 instructor shall be competent to teach the designated course by virtue of his or her education,
- 31 training, and experience, as determined by the Board pursuant to G.S. 90-457.1(b);
- 32 (3) The course shall have stated course objectives and a course syllabus or a description of the content
- 33 of the course with a class outline;
- 34 (4) The course shall be evaluated by each ~~participant;~~ participant on an evaluation form provided by
- 35 the instructor; and
- 36 (5) Upon completion of each ~~course~~ course, the provider shall issue a certificate of completion to each
- 37 participant to include:

- (A) ~~Title~~ The title of the course;
- (B) ~~Name~~ The name of the participant;
- (C) ~~Name~~ The name of all instructors;
- (D) ~~Name~~ The name of the provider;
- (E) ~~Date~~ The date and location of the course; and
- (F) ~~Number~~ The number of CEUs completed.
- (c) Licensees shall maintain CPR certification, by taking a CPR certification course every renewal period. Two (2) CEUs are granted for maintaining CPR certification.
- (f) A maximum of 10 CEUs may be obtained in each renewal period by licensees who are involved in acupuncture or Chinese medicine research studies in accredited hospitals or educational institutions. A research project may only be submitted once for the purpose of obtaining CEU credit. In order to obtain Research approved CEUs the following must be submitted to the Board for review and approval:
- (1) The institutional Review Board (IRB) approval;
- (2) A summary of the study; and
- (3) The names and credentials of primary researchers involved.
- (g) A maximum of 10 CEUs may be obtained in each renewal period by teaching up to 30 hours of acupuncture education in an American College of Acupuncture and Oriental Medicine (ACAOM) accredited educational institution. Three hours of teaching are necessary for each CEU awarded.
- (h) A maximum of 10 CEUs may be obtained in each renewal period by teaching up to 30 hours of a CEU course approved by the NCALB. All CEUs for teaching shall be approved in advance by the Board prior to the date of the class and awarded for actual classroom hours taught. Three hours of teaching are necessary for each CEU awarded. For approval the licensee shall submit the following information:
- (1) The title of the course;
- (2) A summary of course content or class syllabus;
- (3) The location of the course;
- (4) The dates of the course;
- (5) The total number of classroom hours taught;
- (6) A copy of course evaluation to be provided students; and
- (7) The course fees and refund policy.
- (i) A maximum of 10 CEUs may be obtained by authoring an article in a peer-reviewed journal of acupuncture or Chinese medicine. Examples of journals that would be considered by the Board include:
- (1) The Journal of Traditional Chinese Medicine;
- (2) The American Journal of Chinese Medicine; and
- (3) The World Journal of Traditional Chinese Medicine.
- (j) A maximum of 28 CEUs may be obtained in online courses. All online courses shall be approved by one of the following organizations or their successor organization:

(1) Acupuncture schools in candidacy status or accredited by American College of Acupuncture and Oriental Medicine (ACAOM);
 (2) National Certification Commission for Acupuncture and Oriental Medicine;
 (3) The Society for Acupuncture Research;
 (4) National Acupuncture Detoxification Association;
 (5) American Academy of Medical Acupuncture (AAMA); or
 (6) North Carolina Acupuncture Licensing Board.

~~(e)~~ (k) CEUs from any given course may be used to satisfy the requirements of only one ~~biennium~~ renewal period.
~~(f)~~ (l) At the time of license renewal, each licensee shall sign a statement ~~under penalty of perjury indicating the licensee has complied~~ swearing compliance with the continuing education ~~requirements~~ requirements pursuant to G.S. 90-457.1(d).

~~(g)~~ (m) Each licensee shall retain for four years records of all continuing education programs attended, indicating:

- (1) The title of the course or program;
- (2) ~~sponsoring organization or individual;~~ The name of the participant;
- (3) ~~accrediting organization; and~~ The name of all instructors;
- (4) ~~course hours in attendance.~~ The name of the provider;
- (5) The date and location of the course; and
- (6) The number of CEUs completed.

~~(h)~~ (n) ~~The Pursuant to G.S. 90-457.1(b), the Board may audit the records of any licensee. licensee to ensure compliance with the continuing education requirements of this Rule. No licensee shall be subject to audit more than once every two years. Those licensees selected for audit shall be required to document their compliance with the continuing education requirements of this article.~~

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

~~(j)~~ (p) It shall constitute unprofessional conduct for a licensee to misrepresent completion of required CEUs. In the event of misrepresentation, disciplinary proceedings ~~may~~ shall be initiated by the Board.

~~(k) — A maximum of 20 CEUs may be obtained for correspondence or on-line courses.~~

~~(l) — All applications for pre approval must be submitted 60 days prior to the date of the course.~~

~~(m)~~ (q) A licensee may apply to the Board for an extension of time to complete continuing education requirements as set out in G.S. 90-457.1. All applications for extensions of time must be submitted at least 30 days prior to the renewal deadline.

History Note: Authority G.S. 90-451; G.S. 90-454; G.S. 90-455(b)(3); 90-457.1;
Eff. July 1, 1995;
Temporary Amendment Eff. January 26, 1996;
Temporary Amendment Expired November 11, 1996;
Amended Eff. August 1, 2007; August 1, 2002.
Adopted by Agency August 27, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Acupuncture Licensing Board

RULE CITATION: 21 NCAC 01 .0402

DEADLINE FOR RECEIPT: March 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On lines 3 and 4, do you mean "procedures", or you mean "treatments"? It appears as though any reference to procedures has been stricken elsewhere.

Also, here, you use "practioner", but elsewhere, you have used "licensee." Is there a reason for the different terms? Please be consistent where you can.

Is the intent of (1)(a) to essentially carve out an exception for community acupuncture practices? If so, please make this more clear.

Also, in (1)(a), what are "surroundings" and define "privacy and confidentiality"

On line 7, what is a "community acupuncture practice"? Is this defined elsewhere? Is this a term of art within your practice area?

In (1)(b), define "clean and sanitary."

In (1)(c), what are these standards? Are they incorporated by reference elsewhere? If not, please do so here.

In (1)(3), please incorporate the CFR by reference in accordance with G.S. 150B-21.6. Specifically, please indicate where this can be found and the cost.

To provide a bit more clarity to (2), please consider providing some additional introductory language and making conforming changes to the remainder of the Paragraph as it appears as though all of this is actually medication history. A suggestion is as follows:

Amber May
Commission Counsel
Date submitted to agency: February 26, 2018

(2) ~~New Patient Intake:~~ Prior to treatment, a licensee shall obtain a written or oral medical history that includes the following information:

- (a) ~~Prior to treatment, a written or oral medical history shall be obtained from the patient. Oral statements shall be reflected [written] in the practitioner's notes. Information shall include current~~ Current and past ~~conditions, illnesses,~~ treatments, hospitalizations, ~~and current medications medications,~~ and allergies to ~~medications; medications. A~~
- (b) A social history ~~that~~ shall include ~~the~~ use of tobacco, alcohol, ~~caffeine caffeine,~~ and recreational ~~drugs; drugs.~~
- (b) The names of ~~current~~ health practitioners; ~~practitioners shall be listed.~~
- (c) The ~~current~~ presenting ~~complaints, complaints shall be outlined~~ along with remedies and treatments tried and in ~~progress; progress.~~
- (d) ~~Whether the patient is pregnant; and~~
- (e) ~~Whether the patient has any~~ The [licensee shall inquire about the] possibility of ~~[patient] pregnancy or [and] the presence of~~ biomedical devices, such as artificial joints or cardiac ~~pacemaker shall be ascertained; pacemaker.~~

If you choose not to use this suggestion, in (2)(a), by "Information", do you mean "information to be obtained"? Also, is the intent that the social history be included in "the medical history? Please make this more clear – perhaps something like "Prior to treatment, the licensee shall obtain a medical and social history of the patient."

On line 20, please properly format any punctuation changes in accordance with 26 NCAC 02C .0108 as follows "~~medications medications,~~" Please do the same for "caffeine" on line 21.

Should the "health practitioners" in (2)(b) be included as medical history in (2)(a)? I will defer to you, but it seems to make sense there. Also, please delete or define "current"

In (3), , I think you are trying to make sure that a fee schedule is shared with the patient before treatment begins. If that is correct, please make that more clear. I would suggest something like "Information concerning ~~treatment~~ fees shall be made available ~~to the patient~~ prior to treatment."

In (4), please also consider adding "to the patient" after "shall be given."

Line 31, what does this mean? What is "reasonable" and "usual"? Also, do you mean that the licensee shall provide this information to the patient? If so, please say that.

To provide a bit more clarity to (5), please consider making this one Paragraph – I'm not sure that I understand the use of a list here.

In (5)(a), .0104(2) defines adjunctive therapies. Is this the correct cross-reference? Also, is "Asian" accurate? G.S. 90-451(1) refers to "Chinese"

In Item (6), please define "aligned and consistent" and to what training programs are you referring?

Amber May
Commission Counsel
Date submitted to agency: February 26, 2018

In Item (7), given 90-411, why are lines 12-14 necessary?

To provide a bit more clarity to (8), please consider providing some additional introductory language and making conforming changes to the remainder of the Paragraph. Please say who is expected to perform (8)(a) through (c) as it's not clear as written – I assume it's the licensee, but that's not what the Rule says.

In (8)(a), do you mean "If a patient fails to response to treatments, the licensee shall discuss other forms of treatment or shall refer the patient to another health care professional"? If so, please say that. Also, failure for how long and as determined by whom? Based upon what?

Please update your History Note to reflect the following:

*History Note: Authority G.S. 90-411; 90-454;
Eff. August 1, 1995;
Readopted Eff. April 1, 2018.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 01.0402 is adopted as published in 31:24 NCR 2482 as follows:

21 NCAC 01 .0402 ACUPUNCTURE PROCEDURES

The following procedures shall be followed within the practice of acupuncture:

(1) Practice Setting:

- (a) Treatments shall be given in surroundings that provide privacy and confidentiality. Community acupuncture practices that perform acupuncture treatment in a group setting shall obtain and retain a signed consent waiving the right to a private treatment setting from every patient prior to his or her first treatment.
- (b) Every acupuncture office shall be maintained in a clean and sanitary condition at all times, and shall have ~~a readily~~ an accessible bathroom facility.
- (c) OSHA Standards for Blood Borne Pathogens shall be met.
- (d) All acupuncture practice and recordkeeping shall be compliant with all State and federal laws and regulations pertaining to the confidentiality of medical records including security and privacy regulations enacted under HIPAA, 45 C.F.R Part 160 and subparts A and E of Part 164, as amended or replaced.

(2) New Patient Intake:

- (a) Prior to treatment, a written or oral medical history shall be obtained from the patient. Oral statements shall be ~~reflected~~ written in the practitioner's notes. Information shall include current and past illnesses, treatments, hospitalizations, current medications, and allergies to medications. A social history shall include use of tobacco, alcohol, caffeine, and recreational drugs.
- (b) The names of current health practitioners shall be listed.
- (c) The ~~current~~ presenting complaints shall be outlined along with remedies and treatments tried and in progress.
- (d) The licensee shall inquire about the possibility of patient pregnancy or and the presence of biomedical devices, such as artificial joints or cardiac pacemaker shall be ascertained. pacemaker.

(3) Fees. Information concerning fees shall be made available prior to treatment.

(4) Guarantees. No ~~guarantee~~ express or implied guarantee about the success of treatment shall be given. Reasonable indication of the length of treatment and usual outcome shall be given.

(5) Diagnosis:

- (a) ~~Diagnosis~~ Licensees shall diagnose each patient be made utilizing employing methods connected with used by the traditions represented in Oriental Asian medicine as listed in reflected in Rule .0104(2) of this Chapter. Examples of diagnostic measures include the Eight Principles, Five Elements, Pulse diagnosis, and Tongue diagnosis. Chapter and

1 within the context of American College of Acupuncture and Oriental Medicine
2 (ACAOM) educational programs.

3 (b) ~~The All acupuncture diagnostic techniques utilized procedures~~ shall be recorded at each
4 visit.

5 (6) Treatment. The specifics of ~~the all~~ treatment shall be recorded at each visit. Treatments shall be
6 aligned and consistent with Asian and biomedical knowledge obtained in acupuncture training
7 programs.

8 (7) Medical Records. Dated notes of each patient visit and communication shall be ~~kept~~ kept seven
9 years. These records may only be made available to other parties with the patient's written
10 authorization. Authorization for release of medical records shall be obtained prior to sharing of
11 any patient information. Medical records shall be released to patient upon receipt of the
12 authorization. G.S. 90-411 sets forth the amounts healthcare providers can charge for copies of
13 patient medical records. In charging patients for their records, licensees shall follow G.S. 90-411
14 as written, or as subsequently amended.

15 (8) Failure to Progress:

16 (a) If a patient fails to respond to treatments, discussion about other forms of treatment or
17 referral to another health care professional shall be made.

18 (b) In the case of ~~persistent~~, persistent or unexplained pain, or the unexplained worsening of
19 any condition ~~in the face of ongoing treatment~~, while receiving treatment, referral or
20 consultation shall be made. In choosing a referral source, priority shall be given to
21 previously seen practitioners.

22 (c) Requests by the patient for information about other forms of treatment or referral shall
23 always be honored.

24 History Note: Authority G.S. 90-411; G.S. 90-454. Eff. August 1, 1995.

25 Readopted by Agency August 27, 2017.