
NEW JERSEY ADMINISTRATIVE CODE
TITLE 13
LAW AND PUBLIC SAFETY
CHAPTER 35
SUBCHAPTER 9
ACUPUNCTURE

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SUBCHAPTER 9. ACUPUNCTURE

13:35-9.1 PURPOSE AND SCOPE

- a) The rules of this subchapter are established pursuant to N.J.S.A. 45:2C-1 et seq. ("The Acupuncture Act") and set forth requirements for the practice of acupuncture in the State of New Jersey.

- b) The rules of this subchapter shall apply to all persons licensed as acupuncturists by the State of New Jersey, applicants for such licensure, guest acupuncturists granted temporary permission by the Board to perform acupuncture pursuant to N.J.A.C. 13:35-9.13, students participating in an approved course of study or school in acupuncture, and persons licensed in New Jersey as physicians or dentists who practice acupuncture, provided that their courses of training have included acupuncture.

13:35-9.2 DEFINITIONS

For purposes of this subchapter, the following terms shall have the following meanings:

"ACAOM" means the Accreditation Commission for Acupuncture and Oriental Medicine.

"Acupuncture" means the practice of Oriental medicine based on traditional Oriental medical theories, including stimulation of a certain point or points on or near the surface of the body by the insertion of special needles to prevent or modify the perception of pain or to normalize physiological functions including pain control and for the treatment of diseases or dysfunctions of the body. "Acupuncture" includes the techniques electroacupuncture, mechanical stimulation, adjunctive therapies, and moxibustion

"Acupuncture program" means a course of study in acupuncture that is at least three years long and which is in addition to and separate from a baccalaureate degree program.

"Acupuncturist" means an individual licensed by the Board to perform acupuncture services.

"Adjunctive therapies" means those practices taught in ACAOM-approved schools and through NCCAOM-approved continuing education courses that are complementary to the performance of acupuncture.

"Baccalaureate Degree" means a bachelor degree granted upon the conclusion of a program that consists of at least 120 credits by a college or university that is accredited by a regional accreditation agency recognized by the Council for Higher Education Accreditation (CHEA) or the United States Department of Education.

"Board" means the Acupuncture Examining Board established by N.J.S.A. 45:2C-1 et seq.

"Electroacupuncture" means the therapeutic use of weak electric currents at acupuncture loci to diagnose or to treat diseases or conditions.

"Glandulars" means non-prescriptive supplements that are derived from glands.

"Gua sha" means scraping applied to the surface of the skin with a round edged tool for therapeutic purposes.

"Guest acupuncturist" means an individual legally authorized to perform acupuncture services in another state or in another country, who is not a certified acupuncturist in this State and who is permitted to perform acupuncture services pursuant to N.J.A.C. 13:35-9.14.

"Herbology" means the administration or recommendation of botanical, mineral, or animal substances, and includes prepared and raw forms of single herbs or formulas, and dietary supplements that incorporate herbs as ingredients. "Herbology" does not include the injection of herbs.

"Mechanical stimulation" means stimulation of a certain acupuncture point or points on or near the surface of the body by means of apparatus or instrument.

"Moxibustion" means the therapeutic use of thermal stimulus at acupuncture loci by burning artemisia alone or artemisia formulations.

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

"Oriental dietary therapy" means dietary and nutritional counseling and the recommendation of foods for therapeutic purposes.

"Oriental medicine" means a whole medical system originating in East Asia that aims to treat disease and support the body's ability to heal itself with a diverse range of traditional and modern therapeutic interventions.

"Qigong" means breathing techniques and exercises that promote health.

"Sterilize" or "sterilization" means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

"Surface stimulation" means the application of purposeful stimuli to the surface of the body.

"Tuina" means a form of massage therapy based on traditional Oriental medical theories using or incorporating traction, manipulation of acupressure points, acupoint stimulation, and joint mobilization for therapeutic purposes.

13:35-9.3 CREDENTIALS REQUIRED FOR CERTIFICATION

- a) At the time of application, an applicant shall submit to the Board:
- 1) A completed application form;
 - 2) Legal proof of having attained the age of 21, evidenced by a document issued by a governmental agency;
 - 3) Proof that the person has passed the English version of each of the following modules of the NCCAOM examination:
 - i) Foundations of Oriental Medicine;
 - ii) Acupuncture;
 - iii) Point Location; and
 - iv) Biomedicine;
 - 4) If an applicant's entire education (high school, college or university and acupuncture program) was conducted in a language other than English, proof that the applicant has achieved a passing score on the Test of English as a Foreign Language (TOEFL) examination; and
 - 5) Proof that the applicant has completed the education requirements of N.J.A.C. 13:35-9.4.

- b) An applicant who passed the NCCAOM examination prior to January 1, 2003 shall submit proof that he or she has passed the NCCAOM biomedicine module.
- c) Any credentials required to be submitted pursuant to (a) above, which are written in a language other than English shall be accompanied by an English translation prepared at the applicant's expense. A list of translation services shall be provided by the Board to an applicant upon request.

13:35-9.4 EDUCATION REQUIRED FOR LICENSURE

- a) In order to qualify for licensure, an applicant shall meet one of the following education requirements:
 - 1) Obtain a baccalaureate degree from a school within the United States and graduate from an acupuncture program, which meets the requirements of (e) below; or
 - 2) Obtain the equivalent of a baccalaureate degree from a school in another country and complete either:
 - i) An acupuncture program, which meets the requirements of (e) below in the United States; or
 - ii) An acupuncture program that is part of the baccalaureate degree program or its equivalent in another country.
- b) An individual who obtains his or her education in the United States shall submit proof that he or she has obtained a baccalaureate degree. An applicant shall arrange for the college or university to submit a certified transcript directly to the Board.
- c) An individual who obtains his or her education in another country shall arrange for a transcript evaluating company recognized by NCCAOM to submit a credential evaluation directly to the Board.
- d) The credential evaluation required by (c) above shall demonstrate that the applicant obtained a degree:
 - 1) That is equivalent to a combined baccalaureate degree and an acupuncture program from a college or university in another country that is accredited in that country;

- 2) That is equivalent to a master's degree or doctoral degree for which a baccalaureate degree or its equivalent was a prerequisite, and an acupuncture program from a college in another country that is accredited in that country;
 - 3) From a college or university in another country that is equivalent to a baccalaureate degree. The college or university shall be accredited in the other country. An applicant who qualifies for certification by this method shall submit proof that he or she completed an acupuncture program in the United States that complies with (e) below; or
 - 4) From a college in another country that is equivalent to a master's degree or doctoral degree for which a baccalaureate degree or its equivalent was a prerequisite. The college or university shall be accredited in the other country. An applicant who qualifies for certification by this method shall submit proof that he or she completed an acupuncture program in the United States that complies with (e) below.
- e) An acupuncture program that is required for licensure shall be given by a school accredited by the Accreditation Commission for Acupuncture and Oriental Medicine, the Commission on Recognition of Post-Secondary Accreditation, or the United States Department of Education. A list of accredited acupuncture schools shall be maintained by the Board and provided to an applicant upon request. An applicant shall arrange for the school of acupuncture to submit a certified transcript confirming that a diploma was awarded to the applicant directly to the Board.
- f) Commencing June 21, 2014, the acupuncture program required by (e) above shall consist of at least 2,500 hours of instruction.
- g) Any credentials required to be submitted pursuant to (a), (b) or (d) above, which are written in a language other than English shall be accompanied by an English translation prepared at the applicant's expense. A list of translation services shall be provided by the Board to an applicant upon request.

13:35-9.5 NEW JERSEY ACUPUNCTURE SAFETY AND JURISPRUDENCE EXAMINATION

- a) An applicant shall pass the acupuncture safety and jurisprudence examination in English administered by the Board.
- b) An applicant shall complete all of the requirements set forth in N.J.A.C. 13:35-9.3 before he or she may take the Board administered acupuncture safety and jurisprudence examination.

- c) An applicant who has passed the acupuncture safety and jurisprudence examination shall become licensed within six months of passing the examination. If an applicant fails to become licensed within the six months, he or she shall be required to retake and pass the examination before being issued a license.

13:35-9.6 (RESERVED)

13:35-9.7 PROHIBITED TITLES

- a) An acupuncturist shall not represent that he or she has a doctoral degree in the field of acupuncture and/or oriental medicine, or use the title "doctor" or "Dr.," unless the educational program that awarded his or her degree is:
- 1) Approved by the Accreditation Commission of Acupuncture and Oriental Medicine (ACAOM) or is a college or university that is accredited by an regional accrediting agency recognized by the Council for Higher Education Accreditation (CHEA) or the United States Department of Education; or
 - 2) Approved by the ministry of education of a foreign country to grant doctoral degrees.
- b) An acupuncturist who uses the title "doctor" or "Dr." pursuant to (a) above shall indicate that the doctoral degree is in acupuncture and/or oriental medicine.
- c) An acupuncturist shall not represent that he or she has a master's degree in the field of acupuncture and/or oriental medicine unless the educational program that awarded his or her degree is:
- 1) Approved by the Accreditation Commission of Acupuncture and Oriental Medicine (ACAOM) or is a college or university that is accredited by an regional accrediting agency recognized by the Council for Higher Education Accreditation (CHEA) or the United States Department of Education; or
 - 2) Approved by the ministry of education of a foreign country to grant master's degrees.
- d) An acupuncturist who has a doctoral or master's degree in a field other than acupuncture and/or oriental medicine may, in advertising or other materials visible to the public pertaining to the acupuncturist's practice, include this degree provided that the field in which the degree was awarded is specified without using an abbreviation and the doctoral or master's degree was obtained from an educational program, which meets the requirements of (a) or (c) above.

- e) An acupuncturist who has a doctorate in a field other than acupuncture or oriental medicine shall not use the title "doctor" in advertising or other materials visible to the public pertaining to the acupuncturist's acupuncture practice.

13:35-9.8 FEE SCHEDULE

a) The Board shall charge the following fees:

- 1) Application Fee \$100.00
- 2) Initial Certification Fee
 - i) If paid during the first year of a biennial renewal period \$270.00
 - ii) If paid during the second year of a biennial renewal period \$135.00
- 3) Biennial Certification \$270.00
- 4) Duplicate or replacement of biennial license \$25.00
- 5) Late Fee (biennial license) \$50.00
- 6) Inactive License Fee (to be determined by Director by regulation)
- 7) Reinstatement Fee \$150.00
- 8) Preparation of certification papers for applicants to other states \$25.00
- 9) Continuing education sponsor fee..... \$100.00

b) The application fee is non-refundable.

13:35-9.9 BIENNIAL LICENSE RENEWAL; LICENSE SUSPENSION; REINSTATEMENT OF SUSPENDED LICENSE; INACTIVE STATUS; RETURN FROM INACTIVE STATUS

- a) All licenses to practice acupuncture issued by the Board shall be issued for a two-year biennial licensure period. A licensee who seeks renewal of the license shall submit a renewal

application and the renewal fee set forth in N.J.A.C. 13:35-9.8 prior to the expiration date of the license.

- b) The Board shall send a notice of renewal to each licensee at the address registered with the Board at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.
- c) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee, and a late fee, as set forth in N.J.A.C. 13:35-9.8. During this 30-day period, the license shall be valid, and the licensee shall not be deemed to be engaged in unauthorized practice.
- d) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unauthorized practice.
- e) A licensee whose license has been automatically suspended for five years or less for failure to renew pursuant to (d) above may be reinstated by the Board upon completion of the following:
 - 1) Payment of the reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:35-9.8;
 - 2) Completion of the continuing education units required for each biennial registration period for which the license was suspended; and
 - 3) Submission of an affidavit of employment listing each job held during the period of the suspended license, which includes the name, address, and telephone number of each employer.
- f) In addition to the fulfilling the requirements set forth in (e) above, a licensee whose license has been automatically suspended for more than five years who wishes to have his or her license reinstated shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while suspended may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her license.
- g) Renewal applications shall provide the licensee with the option of either active or inactive status. A licensee electing inactive status shall pay the inactive license fee set forth in N.J.A.C. 13:35-9.8 and shall not engage in the practice of acupuncture.

- h) A licensee who elected inactive status and has been on inactive status for five years or less may be reinstated by the Board upon completion of the following:
- 1) Payment of the reinstatement fee;
 - 2) The completion of the continuing education units required for each biennial registration period for which the licensee was on inactive status; and
 - 3) Submission of an affidavit of employment listing each job held during the period the licensee was on inactive status, which includes the name, address, and telephone number of each employer.
- i) In addition to the fulfilling the requirements set forth in (h) above, a licensee who has been on inactive status for more than five years who wishes to return to practice shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while on inactive status may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her license.

13:35-9.10 DISPLAY OF LICENSE

A licensed acupuncturist shall post his or her license in a conspicuous location in his or her office. If a licensed acupuncturist has more than one office, he or she shall obtain from the Board a duplicate license for each location.

13:35-9.11 INFORMED CONSENT; MEDICAL MALPRACTICE

- a) The acupuncturist shall fully disclose to the patient such information as will enable the patient to make an evaluation of the nature of the treatment and of any attendant risks, as well as of available alternative options and the risks and likely outcomes of those alternatives. The acupuncturist shall obtain, and maintain as part of his or her patient records, informed written consent from the patient before beginning acupuncture treatment.
- b) A licensed acupuncturist shall advise every patient as to the importance of consulting with a licensed physician regarding the patient's condition.

- c) A licensed acupuncturist shall maintain as part of his or her patient records a form, with the date and the signatures of the patient and the licensed acupuncturist, indicating that the licensed acupuncturist has advised the patient as required under (b) above and shall provide a copy of this form to the patient
- d) Licensed acupuncturists shall maintain medical malpractice insurance in the sum of \$ 1 million per occurrence and \$ 3 million per policy year.

13:35-9.12 SCOPE OF PRACTICE

- a) The use of any of the following to effect the stimulation of acupuncture points and channels is within the scope of practice of licensed acupuncturists and shall be performed only by acupuncturists licensed by the Board, individuals permitted to practice pursuant to N.J.S.A. 45:2C-8, students in acupuncture programs that meet the requirements of N.J.A.C. 13:35-9.4(e), or guest acupuncturists permitted to perform acupuncture in New Jersey pursuant to N.J.A.C. 13:35-9.13:
 - 1) Needles;
 - 2) Moxibustion;
 - 3) Teishin (pressure needles); and
 - 4) Electroacupuncture (utilizing electrodes on the surface of the skin or current applied to inserted needles).
- b) Licensed acupuncturists, individuals permitted to practice pursuant to N.J.S.A. 45:2C-8, students in acupuncture programs that meet the requirements of N.J.A.C. 13:35-9.4(e), or guest acupuncturists permitted to perform acupuncture in New Jersey pursuant to N.J.A.C. 13:35-9.13 may, in addition to the methods listed in (a) above, use any of the following as part of his or her professional practice:
 - 1) Acupatches;
 - 2) Acuform;
 - 3) Manual acutotement (stimulation by an instrument that does not pierce the skin);

- 4) Acupressure;
- 5) Cupping;
- 6) Gua sha scraping techniques;
- 7) Cold laser used for needle-less acupuncture;
- 8) Tuina;
- 9) Massage, bodywork and somatic therapy;
- 10) Ultrasonic;
- 11) Thermal methods;
- 12) Magnetic stimulation;
- 13) Breathing techniques;
- 14) Therapeutic exercise and techniques;
- 15) Oriental dietary therapy;
- 16) Lifestyle and behavioral education;
- 17) Percutaneous and transcutaneous electrical nerve stimulation;
- 18) Qigong;
- 19) Biofeedback and other devices that utilize color, light, sound, and electromagnetic energy for therapeutic purposes;
- 20) Diagnostic and assessment techniques that are taught in ACAOM-approved schools and through NCCAOM-approved continuing education courses and which assist in acupuncture and Oriental medicine diagnosis, corroboration, and monitoring of a treatment plan or in making a determination to refer a patient to another healthcare provider;

- 21) Taiji; and
 - 22) Energetic therapy.
- c) Licensed acupuncturists, individuals permitted to practice pursuant to N.J.S.A. 45:2C-8, students in acupuncture programs that meet the requirements of N.J.A.C. 13:35-9.4(e), or guest acupuncturists permitted to perform acupuncture in New Jersey pursuant to N.J.A.C. 13:35-9.13 may recommend to patients the use of:
- 1) Meditation; and
 - 2) Products that facilitate health, such as:
 - i) Homeopathic medicine that is recognized in the official Homeopathic Pharmacopoeia of the United States;
 - ii) Vitamins;
 - iii) Minerals;
 - iv) Enzymes;
 - v) Glandulars;
 - vi) Amino acids;
 - vii) Nonprescription substances; and
 - viii) Nutritional or dietary supplements that meet Food and Drug Administration labeling requirements, 21 CFR 101.36, unless otherwise prohibited by State or Federal law.
- d) Licensed acupuncturists, individuals permitted to practice pursuant to N.J.S.A. 45:2C-8, students in acupuncture programs that meet the requirements of N.J.A.C. 13:35-9.4(e), or guest acupuncturists permitted to perform acupuncture in New Jersey pursuant to N.J.A.C. 13:35-9.13 may use the following when providing acupuncture:
- 1) Solid filiform needles;
 - 2) Dermal needles;

- 3) Plum blossom needles;
 - 4) Intradermal/press needles;
 - 5) Prismatic needles;
 - 6) Lancets; and
 - 7) Non-insertive pressure needles.
- e) Licensed acupuncturists, students in acupuncture programs that meet the requirements of N.J.A.C. 13:35-9.4(e), or guest acupuncturists permitted to perform acupuncture in New Jersey pursuant to N.J.A.C. 13:35-9.13 shall not use the following when providing acupuncture:
- 1) Staples;
 - 2) Hypodermic needles; and
 - 3) Subcutaneous permanently implanted needles or sutures.
- f) The only licensed acupuncturists who may practice herbology are those qualified to do so under N.J.A.C. 13:35-9.12A.
- g) Licensed acupuncturists may offer and provide to a patient, at fair market value, goods and devices.

13:35-9.12A HERBOLOGY

- a) Except as set forth in (b) and (c) below, a licensed acupuncturist shall practice herbology only if he or she submits proof to the Board of current certification in Chinese Herbology or Oriental Medicine from the NCCAOM and has a letter from the Board recognizing that the licensed acupuncturist has submitted this information
- b) Prior to October 21, 2014, a licensed acupuncturist who obtained his or her license on or before November 2, 2009, may obtain a letter from the Board recognizing that he or she may practice herbology if he or she:

- 1) Successfully completed an herbology program from a school accredited by the ACAOM;
 - 2) Passed the NCCAOM herbology examination;
 - 3) Was ever certified in Chinese Herbology or Oriental Medicine by NCCAOM; or
 - 4) Passed the NCCAOM herbology examination module.
- c) Prior to October 21, 2014, a licensed acupuncturist who was enrolled in a school accredited by the ACAOM on or before November 2, 2009, may obtain a letter from the Board recognizing that he or she may practice herbology if:
- 1) He or she graduated from the ACAOM accredited school in which he or she was enrolled in on or before November 2, 2009; and
 - 2) The school had a program in Chinese herbal medicine.
- d) A licensed acupuncturist who is permitted to practice herbology pursuant to (a), (b), or (c) above shall complete at least 10 hours of continuing education related to the practice of herbology as part of the 30 hours of continuing education he or she is required to complete pursuant to N.J.A.C. 13:35-9.20.

13:35-9.13 GUEST ACUPUNCTURIST

- a) An individual who is not a licensed acupuncturist, an individual who is permitted to practice pursuant to N.J.S.A. 45:2C-8, or a student in an acupuncture program that meets the requirements of N.J.A.C. 13:35-9.4(e) may perform acupuncture services as a guest acupuncturist if:
- 1) The individual receives permission from the Board to act as a guest acupuncturist pursuant to (c) below;
 - 2) The individual performs acupuncture services as an instructor in a baccalaureate degree program, an acupuncture program that meets the requirements of N.J.A.C. 13:35-9.4(e) or a continuing education course that meets the requirements of N.J.A.C. 13:35-9.20(d); and
 - 3) The individual is legally authorized to perform acupuncture services in another state or in another country.

- c) An individual seeking permission to act as a guest acupuncturist shall arrange for an individual in charge of the baccalaureate degree program, acupuncture program or continuing education course in which he or she will act as an instructor to submit a request for permission to the Board, in writing, no later than 60 days prior to the guest acupuncturist's initial educational presentation in New Jersey. A resume or summary of the guest acupuncturist's credentials, written in English, shall accompany the request for approval.
- d) An individual performing acupuncture services pursuant to this section shall not:
 - 1) Perform acupuncture services in New Jersey for more than 30 days within a calendar year; or
 - 2) Open an office or appoint a place to meet patients or receive calls from patients in New Jersey.

13:35-9.14 UNLICENSED PRACTICE OF ACUPUNCTURE

- a) An individual is engaging in the unlicensed practice of acupuncture if the individual engages in any of the practices outlined in N.J.A.C. 13:35-9.12(a) and is not:
 - 1) Licensed by the Board as an acupuncturist;
 - 2) A physician or dentist whose course of training has included acupuncture pursuant to N.J.S.A. 45:2C-8;
 - 3) A guest acupuncturist permitted to perform acupuncture services pursuant to N.J.A.C. 13:35-9.13; or
 - 4) A student participating in an acupuncture program pursuant to N.J.A.C. 13:35-9.4(e).

13:35-9.15 PRECAUTIONARY AND STERILIZATION PROCEDURES

- a) All non-disposable needles and acupuncture equipment that comes into contact with the patient's blood or bodily fluids or penetrates the skin, and equipment used to handle or store needles or other acupuncture equipment that comes into contact with the patient's blood or bodily fluids or penetrates the skin, shall be sterilized prior to each use. Prior to sterilization,

all equipment to be sterilized shall be thoroughly cleaned with a disinfectant or cleansing solution.

- b) Sterilization shall be accomplished before use by one of the following methods:
 - 1) Steam autoclave at 250 degrees Fahrenheit (120 degrees Celsius) and 15 pounds per square inch of pressure for 30 minutes;
 - 2) Equivalent dry heat; or
 - 3) Ethylene oxide gas sterilization.
- c) Sterilization equipment shall be used and maintained strictly in accordance with the guidelines of the manufacturer of the equipment, and shall be monitored regularly in accordance with the manufacturer's guidelines to determine whether the equipment is functioning properly.
- d) The following methods of sterilization are prohibited: boiling acupuncture equipment, soaking acupuncture equipment in alcohol or other antiseptic solution, or glass bead sterilization.
- e) Disposable acupuncture needles shall be placed in a rigid, puncture-proof, sealable container. The container shall be sealed and labeled as a disposal container and shall be labeled as bio-hazardous material. The disposal container shall be wiped with a disinfectant if blood or other bodily fluids are spilled on the outside of the container. The acupuncturist shall dispose of the container pursuant to the requirements of the Department of Environmental Protection implementing the Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq., and N.J.A.C. 7:26-3A. The acupuncturist may delegate the responsibility to dispose the container to an agent approved by the Department of Environmental Protection.
- f) If a licensee learns that a patient has a blood-borne infectious disease, the licensee shall use only disposable needles in treating the patient.
- g) The acupuncturist shall ensure that personnel responsible for performing sterilization procedures pursuant to this rule are adequately trained and supplied with a written outline of sterilization procedures. A copy of the outline shall be maintained on the premises.

13:35-9.16 PREPARATION OF PATIENT RECORDS; COMPUTERIZED RECORDS; ACCESS TO OR RELEASE OF INFORMATION; CONFIDENTIALITY, TRANSFER OR DISPOSAL OF RECORDS

- a) The following words and terms, as used in this section, shall have the following meanings unless the context clearly indicates otherwise:
- 1) "Authorized representative" means a person who has been designated by the patient or a court to exercise rights under this section. An authorized representative may be the patient's attorney or an employee of an insurance carrier with whom the patient has a contract which provides that the carrier be given access to records to assess a claim for monetary benefits or reimbursement. If the patient is a minor, a parent or guardian who has custody (whether sole or joint) shall be deemed to be an authorized representative.
 - 2) "Patient" means any person who is the recipient of acupuncture.
- b) Acupuncturists shall prepare contemporaneous, permanent professional treatment records. Acupuncturists shall also maintain records relating to billings made to patients and third-party carriers for professional services. All treatment records, bills, and claim forms shall accurately reflect the treatment or services rendered. Treatment records shall be maintained for a period of seven years from the date of the most recent entry.
- 1) To the extent applicable, professional treatment records shall reflect:
 - i) The dates of all treatments;
 - ii) The patient complaint;
 - iii) The history;
 - iv) Progress notes;
 - v) Any orders for tests or consultations and the results thereof;
 - vi) Documentation indicating that informed consent was given by the patient;
 - vii) Findings from examinations;
 - viii) If a physician has referred a patient for acupuncture, an indication that a referral or diagnosis was made by a physician, including the name of the physician; and

- ix) Documentation of any recommendations made to a patient for the use of meditation or products that facilitate health.
- 2) Corrections and/or additions may be made to an existing record, provided that each change is clearly identified as such, dated and initialed by the licensee;
- 3) A patient record that is prepared and maintained on a personal or other computer shall be prepared and maintained as follows:
 - i) The patient record shall contain at least two forms of identification, for example, name and record number or any other specific identifying information;
 - ii) The entry made by the acupuncturist shall be made contemporaneously with the treatment and shall contain the date of service, date of entry, and full printed name of the treatment provider. The acupuncturist shall finalize or "sign" the entry by means of a confidential personal code ("CPC") and include date of the "signing";
 - iii) The acupuncturist may dictate a dated entry for later transcription. The transcription shall be dated and identified as "preliminary" until reviewed, finalized and dated by the acupuncturist as provided in (b)3ii above;
 - iv) The computer system shall contain an internal permanently activated date and time recordation for all entries, and shall automatically prepare a back-up copy of the file;
 - v) The computer system shall be designed in such manner that after "signing" by means of the CPC, the existing entry cannot be changed in any manner. Notwithstanding the permanent status of a prior entry, a new entry may be made at any time and may indicate correction to a prior entry;
 - vi) Where more than one acupuncturist is authorized to make entries into the computer file of any professional treatment record, the acupuncturist responsible for the acupuncture practice shall assure that each such person obtains a CPC and uses the file program in the same manner; and
 - vii) A copy of each day's entry, identified as preliminary or final as applicable, shall be made available to a physician responsible for the patient's care, to a representative of the Board, the Attorney General or the Division of Consumer Affairs no later than 10 days after a request for the record, or to a patient within 30 days of the request or promptly in the event of emergency.

- c) Acupuncturists shall provide access to professional treatment records to a patient or an authorized representative in accordance with the following:
- 1) No later than 30 days from receipt of a request from a patient or an authorized representative, the acupuncturist shall provide a copy of the professional treatment record, and/or billing records as may be requested. The record shall include all pertinent objective data including test results, as applicable, and subjective information.
 - 2) Unless otherwise required by law, an acupuncturist may, if a patient requests, provide a summary of the record in lieu of providing a photocopy of the actual record, so long as that summary adequately reflects the patient's history and treatment. An acupuncturist may charge a reasonable fee for the preparation of a summary, which has been provided in lieu of the actual record, which shall not exceed the cost allowed by (c)3 below for that specific record.
 - 3) Acupuncturists may require that a record request be in writing and may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less. If the record requested is less than 10 pages, the acupuncturist may charge up to \$10.00 to cover postage and the miscellaneous costs associated with retrieval of the record. If the acupuncturist provides a summary in lieu of the actual record, the charge for the summary shall not exceed the cost that would be charged for the actual record.
 - 4) If the patient or a subsequent treating health care professional is unable to read the treatment record, either because it is illegible or prepared in a language other than English, the acupuncturist shall provide a transcription at no cost to the patient.
 - 5) The acupuncturist shall not refuse to provide a professional treatment record on the grounds that the patient owes the licensee an unpaid balance if the record is needed by another health care professional for the purpose of rendering care.
- d) Acupuncturists shall maintain the confidentiality of professional treatment records, except that:
- 1) The acupuncturist shall release patient records as directed by a subpoena issued by the Board or the Office of the Attorney General, or by a demand for statement in writing under oath from the Board or the Office of the Attorney General, pursuant to N.J.S.A. 45:1-18. Such records shall be originals, unless otherwise specified, and shall be unedited, with full patient names. To the extent that the record is illegible, the acupuncturist, upon request, shall provide a typed transcription of the record. If the record is in a language other than English, the acupuncturist shall also provide a translation.

- 2) The acupuncturist shall release information as required by law or regulation.
 - 3) The acupuncturist, in the exercise of professional judgment and in the best interests of the patient (even absent the patient's request), may release pertinent information about the patient's treatment to another licensed health care professional who is providing or has been asked to provide treatment to the patient, or whose expertise may assist the acupuncturist in his or her rendition of professional services.
- e) Where the patient has requested the release of a professional treatment record or a portion thereof to a specified individual or entity, in order to protect the confidentiality of the records, the acupuncturist shall:
- 1) Secure and maintain a current written authorization, bearing the signature of the patient or an authorized representative;
 - 2) Assure that the scope of the release is consistent with the request; and
 - 3) Forward the records to the attention of the specific individual identified or mark the material "Confidential."
- f) If an acupuncturist ceases to engage in practice or it is anticipated that he or she will remain out of practice for more than three months, the acupuncturist or designee shall:
- 1) Establish a procedure by which patients can obtain a copy of the treatment records or acquiesce in the transfer of those records to another licensee who is assuming responsibilities of the practice. However, an acupuncturist shall not charge a patient, pursuant to (c)3 above, for a copy of the records, when the records will be used for purposes of continuing treatment or care.
 - 2) Publish a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the acupuncturist's practice, at least once each month for the first three months after the cessation; and
 - 3) Make reasonable efforts to directly notify any patient treated during the six months preceding the cessation, providing information concerning the established procedure for retrieval of records.

13:35-9.17 (RESERVED)**13:35-9.18 (RESERVED)****13:35-9.19 (RESERVED)****13:35-9.20 CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS**

- a) For purposes of this section, "contact hour" means at least 50 minutes of instruction.
- b) The provisions of this section shall apply to all acupuncturists applying for biennial license renewal except those seeking renewal for the first time.
- c) No license renewal shall be issued by the Board unless the acupuncturist confirms on the renewal application that he or she completed at least 26 hours of continuing education detailed in (d) below and holds current certification in CPR, first aid, and use of an automated external defibrillator (AED) from courses offered by the American Heart Association or a substantially similar course approved or offered by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute, EMP International Inc., or EMS Safety Services Inc.
- d) Credit for continuing professional education shall be granted as follows for each biennial period:
 - 1) Publishing in a national professional journal, an article related to the practice of acupuncture: three continuing education hours per article, up to 13 hours;
 - 2) Attending seminars and conferences related to the practice of acupuncture: one continuing education hour per contact hour;
 - 3) Successfully completing graduate course work related to the practice of acupuncture taken beyond that required for a professional license in a college or university that is regionally accredited or accredited by the ACAOM: one continuing education hour per credit hour;
 - 4) Teaching new courses or seminars related to the practice of acupuncture. "New" means that the acupuncturist has never taught or developed curriculum for that seminar or lecture in any educational setting: one continuing education hour per contact hour, up to 13 hours;

- 5) Acting as a clinical supervisor in an acupuncture program that meets the requirements of N.J.A.C. 13:35-9.4(e): one continuing education hour per each 15 hours of supervision, up to 10 hours;
 - 6) Successfully completing a continuing education course that has been approved by NCCAOM or by boards or committees regulating acupuncture in other states: one continuing education hour for each contact hour;
 - 7) Successfully completing a distance learning course approved by NCCAOM: one continuing education hour for each contact hour, up to 13 hours;
 - 8) Successfully completing continuing education courses or programs that are pre-approved by the Board pursuant to below: one continuing education hour for each contact hour; and
 - 9) Successfully completing a course that an acupuncturist submits for approval to the Board pursuant to (f) below, one continuing education hour for each contact hour.
- e) Sponsors of continuing education programs or courses seeking Board approval shall obtain Board approval every biennial period prior to representing that any course, program or seminar fulfills the requirements of (c) above and shall:
- 1) At least 90 days prior to the commencement of the course, submit the following for each course, program or seminar offered for evaluation by the Board:
 - i) A detailed descriptive outline of course content and estimated hours of instruction; and
 - ii) The curriculum vitae of each lecturer, including specific background information, which qualifies the individual as a lecturer in the area of instruction;
 - 2) Monitor the attendance at each approved course, program or seminar and furnish to each enrollee a written verification of attendance, which shall include at least the following information:
 - i) The title, date and location of the course, program or seminar offering;
 - ii) The name and license number of the attendee;
 - iii) The hours of instruction provided; and

- iv) The name and signature of the sponsor and the seal of the organization;
- 3) Evaluate course offerings. Evaluations shall be solicited from both the attendees and the instructors; and
- 4) Submit a fee pursuant to N.J.A.C. 13:35-9.8(a)11 for each submission of new courses, programs or seminars reviewed by the Board during the biennial licensing period.
- f) An acupuncturist may apply to the Board for approval of a course that does not meet the requirements of (d)2, 3, 6, 7 or 8 above. The acupuncturist shall submit to the Board the title, date and location of the course, program or seminar for which approval is being sought and the information required of a continuing professional education provider pursuant to (e)1 above.
- g) The Board may perform audits on randomly selected acupuncturists to determine compliance with continuing education requirements. An acupuncturist shall maintain the following documentation for a period of four years after completion of the hours and shall submit such documentation to the Board upon request:
 - 1) For publication of an article: the published item, including the date of publication;
 - 2) For attendance at seminars and conferences or completion of continuing education courses: a certificate of completion from the provider;
 - 3) For completion of graduate course work: an official transcript;
 - 4) For teaching a course or seminar: documentation, including a copy of the curriculum, location, date and time of course or seminar, duration of course or seminar by hour and letter from provider confirming that the acupuncturist taught the course or seminar; and
 - 5) For clinical supervision: documentation signed by the director of the acupuncture program indicating the number of hours of clinical supervision the acupuncturist provided.
- h) An acupuncturist who completes more than the minimum continuing education credits set forth in (b) above, in any biennial license renewal period, may carry over the additional hours to the immediately succeeding biennial license renewal period.
- i) The Board may waive continuing education requirements on an individual basis for reasons of hardship, such as illness, disability, active service in the military, or other good cause. An

acupuncturist who seeks a waiver of the continuing education requirements shall apply to the Board in writing at least 90 days prior to license renewal and set forth in specific detail the reasons for requesting the waiver. The acupuncturist shall provide the Board with such supplemental materials as will support the request for waiver. A waiver of continuing education requirements granted pursuant to this subsection shall be effective only for the biennial period in which such waiver is granted. If the condition(s) that necessitated the waiver continue into the next biennial period, an acupuncturist shall apply to the Board for the renewal of such waiver for the new biennial period.

- j) The Board may direct or order an acupuncturist to successfully complete continuing education credits:
 - 1) As part of a disciplinary or remedial measure in addition to the required credits of continuing education; or
 - 2) To correct a deficiency in the acupuncturist's continuing education requirements.
- k) Any continuing education credits completed by the acupuncturist in compliance with an order or directive from the Board as set forth in (j) above shall not be used to satisfy the minimum continuing education requirements as set forth in this section.

13:35-9.21 TELEMEDICINE: PURPOSE AND SCOPE

- a) The purpose of N.J.A.C. 13:35-9.22 through 9.28 and this section is to implement the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.), which authorizes healthcare providers to engage in telemedicine and telehealth.
- b) These rules shall apply to all persons who are licensed by the Board as acupuncturists.
- c) Pursuant to N.J.S.A. 45:1-62, an acupuncturist must hold a license issued by the Board if he or she:
 - 1) Is located in New Jersey and provides health care services to any patient located in or out of New Jersey by means of telemedicine or telehealth; or
 - 2) Is located outside of New Jersey and provides health care services to any patient located in New Jersey by means of telemedicine or telehealth.
- d) Notwithstanding N.J.S.A. 45:1-62, a healthcare provider located in another state who consults with an acupuncturist in New Jersey through the use of information and communications technologies, but does not direct patient care, will not be considered as

providing health care services to a patient in New Jersey and will not be required to obtain licensure in New Jersey in order to provide such consultation.

13:35-9.22 TELEMEDICINE: DEFINITIONS

The following words and terms, when used in N.J.A.C. 13:35-9.21 and 9:23 through 9.28 and this section, shall have the following meanings, unless the context clearly indicates otherwise.

"Acupuncturist" means an individual licensed by the Board as an acupuncturist.

"Asynchronous store-and-forward" means the acquisition and transmission of images, diagnostics, data, and medical information either to or from an originating site or to or from the acupuncturist at a distant site, which allows for the patient to be evaluated without being physically present.

"Board" means the Acupuncture Examining Board.

"Cross-coverage service" means an acupuncturist who engages in a remote evaluation of a patient, without in-person contact, at the request of another acupuncturist who has established a proper acupuncturist-patient relationship with the patient.

"Distant site" means a site at which an acupuncturist is located while providing health care services by means of telemedicine or telehealth.

"On-call" means an acupuncturist is available, where necessary, to physically attend to the urgent and follow-up needs of a patient for whom the acupuncturist has temporarily assumed responsibility, as designated by the patient's primary acupuncturist or other health care provider of record.

"Originating site" means a site at which a patient is located at the time that health care services are provided to the patient by means of telemedicine or telehealth.

"Telehealth" means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.).

"Telemedicine" means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to

bridge the gap between an acupuncturist who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening acupuncturist, and in accordance with the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.). "Telemedicine" does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.

13:35-9.23 TELEMEDICINE: STANDARD OF CARE

- a) Prior to providing services through telemedicine or telehealth, an acupuncturist shall determine whether providing those services through telemedicine or telehealth would be consistent with the standard of care applicable for those services when provided in-person.
- b) If an acupuncturist determines, either before or during the provision of services, that services cannot be provided through telemedicine or telehealth in a manner that is consistent with in-person standards of care, the acupuncturist shall not provide services through telemedicine or telehealth.
- c) An acupuncturist who determines that services cannot be provided through telemedicine or telehealth pursuant to (b) above shall advise the patient to obtain services in-person.
- d) An acupuncturist who provides a diagnosis, treatment, or consultation recommendation, including discussions regarding the risk and benefits of a patient's treatment options, through telemedicine or telehealth shall be held to the same standard of care or practice standards as are applicable to in-person settings.

13:35-9.24 TELEMEDICINE: ACUPUNCTURIST-PATIENT RELATIONSHIP

- a) Prior to providing services through telemedicine or telehealth, an acupuncturist shall establish an acupuncturist-patient relationship by:
 - 1) Identifying the patient with, at a minimum, the patient's name, date of birth, phone number, and address. An acupuncturist may also use a patient's assigned identification number, Social Security number, photo, health insurance policy number, or other identifier associated directly with the patient; and
 - 2) Disclosing and validating the acupuncturist's identity, license, title, and, if applicable, specialty and board certifications.

- b) Prior to an initial contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, an acupuncturist shall review the patient's history and any available records.
- c) Prior to initiating contact with a patient for the purpose of providing services through telemedicine or telehealth, an acupuncturist shall determine whether he or she will be able to provide the same standard of care using telemedicine or telehealth as would be provided if the services were provided in-person. The acupuncturist shall make this determination prior to each unique patient encounter.
- d) Notwithstanding (a), (b), and (c) above, service may be provided through telemedicine or telehealth without a proper provider-patient relationship if:
 - 1) The provision of services is for informal consultations with another healthcare provider performed by an acupuncturist outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;
 - 2) The provision of services is during episodic consultations by a specialist located in another jurisdiction who provides consultation services, upon request, to an acupuncturist in this State;
 - 3) An acupuncturist furnishes assistance in response to an emergency or disaster, provided that there is no charge for the medical assistance; or
 - 4) A substitute acupuncturist, who is acting on behalf of an absent acupuncturist in the same specialty, provides health care services on an on-call or cross-coverage basis, provided that the absent acupuncturist has designated the substitute acupuncturist as an on-call acupuncturist or cross-coverage service provider.

13:35-9.25 TELEMEDICINE: PROVISION OF SERVICES THROUGH TELEMEDICINE OR TELEHEALTH

- a) As long as an acupuncturist has satisfied the requirements of N.J.A.C. 13:35-9.24, an acupuncturist may provide health care services to a patient through the use of telemedicine and may engage in telehealth to support and facilitate the provision of health care services to patients.

- b) Notwithstanding (a) above, an acupuncturist shall not provide health care services through the use of telemedicine that involve a patient or other unlicensed person inserting needles into the body of the patient.
- c) Prior to providing services through telemedicine or telehealth, an acupuncturist shall determine the patient's originating site and record this information in the patient's record.
- d) An acupuncturist providing healthcare services through telemedicine shall use interactive, real-time, two-way communication technologies, which shall include, except as provided in (f) below, a video component that allows an acupuncturist to see a patient and the patient to see the acupuncturist during the provision of services.
- e) An acupuncturist providing services through telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of:
 - 1) Images;
 - 2) Diagnostics;
 - 3) Data; and
 - 4) Medical information.
- f) If, after accessing and reviewing the patient's records, an acupuncturist determines that he or she is able to meet the standard of care for such services if they were being provided in-person without using the video component described in (d) above, the acupuncturist may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without a video component.
- g) During the provision of services through telemedicine or telehealth, and after the provision of services, an acupuncturist, or another designated acupuncturist, shall provide his or her name, professional credentials, and contact information to the patient. Such contact information shall enable the patient to contact the acupuncturist for at least 72 hours following the provision of services, or for a longer period if warranted by the patient's circumstances and accepted standards of care.
- h) Prior to providing services through telemedicine or telehealth, an acupuncturist shall review any history or records provided by a patient as follows:
 - 1) For an initial encounter with a patient, history and records shall be reviewed prior to the provision of services through telemedicine or telehealth; and

- 2) For any subsequent interactions with a patient, history and records shall be reviewed either prior to the provision of services through telemedicine or telehealth or contemporaneously with the encounter with the patient.
- i) After the provision of services through telemedicine or telehealth, an acupuncturist shall provide the patient, upon request, with his or her records created due to the services provided.
- j) An acupuncturist shall provide, upon a patient's written request, the patient's information to the patient's primary care provider or to other health care providers.
- k) An acupuncturist engaging in telemedicine or telehealth shall refer a patient for follow-up care when necessary.

13:35-9.26 TELEMEDICINE: RECORDS

An acupuncturist who provides services through telemedicine or telehealth shall maintain a record of the care provided to a patient. Such records shall comply with the requirements of N.J.A.C. 13:35-9.16, and all other applicable State and Federal statutes, rules, and regulations for recordkeeping, confidentiality, and disclosure of a patient's record.

13:35-9.27 TELEMEDICINE: PREVENTION OF FRAUD AND ABUSE

- a) In order to establish that an acupuncturist has made a good faith effort to prevent fraud and abuse when providing services through telemedicine or telehealth, an acupuncturist must establish written protocols that address:
 - 1) Authentication and authorization of users;
 - 2) Authentication of the patient during the initial intake pursuant to N.J.A.C. 13:35-9.24(a)1;
 - 3) Authentication of the origin of information;
 - 4) The prevention of unauthorized access to the system or information;
 - 5) System security, including the integrity of information that is collected, program integrity, and system integrity;

- 6) Maintenance of documentation about system and information usage;
- 7) Information storage, maintenance, and transmission; and
- 8) Synchronization and verification of patient profile data.

13:35-9.28 TELEMEDICINE: PRIVACY AND NOTICE TO PATIENTS

- a) Acupuncturists who communicate with patients by electronic communications other than telephone or facsimile shall establish written privacy practices that are consistent with Federal standards under 45 CFR Parts 160 and 164, as amended and supplemented, which are incorporated herein by reference, relating to privacy of individually identifiable health information.
- b) Written privacy practices required by (a) above shall include privacy and security measures that assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient email and laboratory results must be password protected or protected through substantially equivalent authentication techniques.
- c) An acupuncturist who becomes aware of a breach in confidentiality of patient information, as defined in 45 CFR 164.402, shall comply with the reporting requirements of 45 CFR Part 164.
- d) Acupuncturists, or their authorized representatives, shall provide a patient, prior to evaluation or treatment, with copies of written privacy practices and shall obtain the patient's written acknowledgement of receipt of the notice.
- e) Acupuncturists who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give patients notice regarding telemedicine and telehealth, including the risks and benefits of being treated through telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. An acupuncturist shall obtain a signed and dated statement indicating that the patient received this notice.
- f) When telemedicine or telehealth is unable to provide all pertinent clinical information that an acupuncturist exercising ordinary skill and care would deem reasonably necessary to provide care to a patient, the acupuncturist shall inform the patient of this prior to the conclusion of the provision of care through telemedicine or telehealth and shall advise the patient

regarding the need for the patient to obtain an additional in-person evaluation reasonably able to meet the patient's needs.

**APPENDIX A
(RESERVED)**
