

Office of Acupuncture Licensure

4 CCR 738-1

RULES AND REGULATIONS

Effective May 30, 2016

Table of Contents

Rule 1 Requirement for Licensure.....2

Rule 2 Licensure by Endorsement2

Rule 3 Requirements for Reinstatement.....2

Rule 4 Unlicensed Persons in Acupuncture Training Programs3

Rule 5 Use of Title and Restrictions.....4

Rule 6 Declaratory Orders4

Rule 7 Reporting Convictions, Judgments and Administrative Proceedings6

Rule 8 Exceptions and Director’s Review of Initial Decisions (Repealed).....7

Rule 9 Duty to Self-Report Certain Medical Conditions (Section 12-29.5-108.5, C.R.S.)
.....7

Rule 10 Injection Therapy8

Office of Acupuncture Licensure Rules Effective May 30, 2016

2

Rule 1 Requirement for Licensure

The purpose of this rule is to establish the qualifications for an acupuncturist license as required in Sections 12-29.5-104(3) and 24-34-102(8.5), C.R.S.

A. In order to qualify for licensure, Section 12-29.5-104(3), C.R.S., requires an applicant to either successfully complete an education program that conforms to the standards approved by the Director of Professions and Occupations (Director) or provide documentation of qualifications that are substantially similar to an approved education program. The Director approved education program includes any diploma program in acupuncture and Oriental medicine accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) or a successor organization.

B. To satisfy the licensure requirement in Section 12-29.5-104(3), C.R.S., the Director requires an applicant to have a current certification at the time of initial license application by the National Certification Commission for Acupuncture and Oriental Medicine ("NCCAOM") or a successor organization. The applicant shall provide verification of this current certification in a manner prescribed by the Director.

C. Education, training, or service gained in military services outlined in Section 24-34-102(8.5), C.R.S., to be accepted and applied towards receiving a license, must be substantially equivalent, as determined by the Director, to the qualifications otherwise applicable at the time of receipt of application. It is the applicant's responsibility to provide timely and complete evidence for review and consideration. Satisfactory evidence of such education, training, or service will be assessed on a case by case basis.

Rule 2 Licensure by Endorsement

The purpose of this rule is to establish the qualifications that are substantially equivalent for an acupuncturist license by endorsement pursuant to Section 12-29.5-104.5(2), C.R.S.

A. For an applicant to establish "substantially equivalent credentials and qualifications" under Section 12-29.5-104.5(1), C.R.S., the Director requires the applicant to submit a certification by NCCAOM or a successor organization. Verification of the certification shall be provided directly from NCCAOM or its successor in a manner prescribed by the Director; and

B. Verification of licensure in another state shall be provided in a manner prescribed by the Director.

Rule 3 Requirements for Reinstatement

The purpose of this rule is to state the requirements for reinstatement of a license that has expired, pursuant to Section 12-29.5-104(4), C.R.S.

A. An applicant seeking reinstatement of an expired license shall complete a reinstatement application, pay a reinstatement fee, and attest to malpractice insurance in the amount required by statute.

B. If the license has been expired for more than two (2) years from the date of receipt of the reinstatement application, but less than five (5) years an applicant shall establish competency to practice under Sections 24-34-102(8)(d)(II), C.R.S. and 24-34-105, C.R.S., by demonstrating one of the following:

Office of Acupuncture Licensure Rules Effective May 30, 2016

3

1. Licensure in good standing from another state along with proof of active practice in that state for two (2) years of the previous five (5) years from the date of application for reinstatement.

2. Completion of thirty (30) hours of continuing education courses related to the practice of acupuncture during the two (2) years immediately preceding the application for reinstatement. The continuing education must meet the approval of and shall be attested to in a manner prescribed by the Director.

3. Active certification by NCCAOM or a successor organization.

4. Competency to practice by any other means approved by the Director.

C. An applicant seeking to reinstate a license that has been expired for more than five (5) years shall establish competency to practice as required in Section 24-34-102(8)(d)(II), C.R.S. by demonstrating one of the following:

1. Licensure in good standing from another state along with proof of active practice for two (2) years of the previous five (5) years from the date of application for reinstatement.
2. Completion of supervised practice for a period no less than six (6) months subject to the terms established by the Director.
3. Competency to practice by any other means approved by the Director.

Rule 4 Unlicensed Persons in Acupuncture Training Programs

The purpose of this rule is to identify the circumstances and conditions under which a person in training may practice acupuncture without a valid and current license on file with the Division of Professions and Occupations pursuant to Section 12-29.5-105(2), C.R.S.

A. A person in training may practice acupuncture without a valid and current license issued by the Division of Professions and Occupations if such practice takes place in the course of a bona fide training program. A bona fide training program is a training or apprenticeship program with an accredited school of acupuncture.

B. A person in training shall be supervised by an acupuncturist licensed in Colorado who holds an active and unrestricted license to practice acupuncture in Colorado.

C. Section 12-29.5-105(2)(a), C.R.S., requires a supervising acupuncturist to provide direct, on-site supervision of persons in training. Direct supervision shall mean supervision that is on the premises and in the same building where any such persons in training are practicing.

D. A person in training may engage in the full scope of the practice of acupuncture as defined in Section 12.29.5-102(3.5), C.R.S.

E. The supervising acupuncturist is responsible for maintaining documentation detailing the beginning and ending dates of the bona fide training program and for ensuring that the names and

current addresses of all supervised persons in training are maintained by the supervising acupuncturist and are readily available for inspection at the request of the Director or designee.

Office of Acupuncture Licensure Rules Effective May 30, 2016

4

Rule 5 Use of Title and Restrictions

The purpose of this rule is to clarify the use of title “licensed acupuncturist” and “diplomat of acupuncture”, and use of the designations “L.Ac.” and “Dipl. Ac.” under Section 12-29.5-105(1.5)(b)(II), C.R.S.

A. Obtaining an acupuncturist license does not automatically entitle or confer upon the licensee the right to use the title Dr. or Doctor.

B. A licensed acupuncturist can use the title Doctor or Dr. only when such licensee has, in fact, been awarded a doctorate degree from an acupuncture or oriental medicine academic/educational institution and satisfies the requirements of Section 6-1-707, C.R.S.

C. In such instances where a licensee qualifies to use the title “Doctor” or “Dr.”, an acupuncturist can use the title “Doctor” or “Dr.” only when accompanied by the words “Doctor of Acupuncture” or letters “D.Ac.”, “Oriental Medicine Doctor” or “OMD”, “Doctor of Acupuncture and Oriental Medicine” or “D.Ac.OM”, “Doctor of Traditional Chinese Medicine” or “DTCM”, “Doctor of Acupuncture and Oriental Medicine” or “DAOM”, or any other doctoral degree recognized and approved by the Director.

Rule 6 Declaratory Orders

The purpose of this rule is to establish procedures for the handling of requests for declaratory orders filed pursuant to the Colorado Administrative Procedures Act at Section 24-4-105(11), C.R.S.

A. Any person or entity may petition the Director for a declaratory order to terminate controversies or remove uncertainties as to the applicability of any statutory provision or of any rule or order of the Director.

B. The Director will determine, at her discretion and without notice to petitioner, whether to rule upon such petition. If the Director determines that the Director will not rule upon such a petition, the Director shall promptly notify the petitioner of the action and state the reasons for such decision.

C. In determining whether to rule upon a petition filed pursuant to this rule, the Director will consider the following matters, among others:

1. Whether a ruling on the petition will terminate a controversy or remove uncertainties as to the applicability to petitioner of any statutory provisions or rule or order of the Director.

2. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Director or a court involving one or more petitioners.

3. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Director or a court but not involving any petitioner.

4. Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.

Office of Acupuncture Licensure Rules Effective May 30, 2016

5. Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colorado Rules of Civil Procedure 57, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule, or order in question.

D. Any petition filed pursuant to this rule shall set forth the following:

1. The name and address of the petitioner and whether the petitioner is licensed pursuant to Title 12, Article 29.5.
2. The statute, rule, or order to which the petition relates.
3. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner.

E. If the Director decides to rule on the petition, the following procedures shall apply:

1. The Director may rule upon the petition based solely upon the facts presented in the petition. In such a case:
 - a. Any ruling of the Director will apply only to the extent of the facts presented in the petition and any amendment to the petition.
 - b. The Director may order the petitioner to file a written brief, memorandum, or statement of position.
 - c. The Director may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.
 - d. The Director may dispose of the petition on the sole basis of the matters set forth in the petition.

e. The Director may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition.

f. The Director may take administrative notice of facts pursuant to the Colorado Administrative Procedures Act at Section 24-4-105(8), C.R.S., and may utilize the Director's experience, technical competence, and specialized knowledge in the disposition of the petition.

2. If the Director rules upon the petition without a hearing, the Director shall promptly notify the petitioner of her decision.

Office of Acupuncture Licensure Rules Effective May 30, 2016

6

3. The Director may, at the Director's discretion, set the petition for hearing, upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The hearing notice to the petitioner shall set forth, to the extent known, the factual or other matters that the Director intends to inquire.

For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all the facts stated in the petition; all of the facts necessary to show the nature of the controversy or uncertainty; and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the Director to consider.

F. The parties to any proceeding pursuant to this rule shall be the Director and the petitioner. Any other person may seek leave of the Director to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Director. A petition to intervene shall set forth the same matters as are required by Section D of this Rule. Any reference to a “petitioner” in this rule also refers to any person who has been granted leave to intervene by the Director.

G. Any declaratory order or other order disposing of a petition pursuant to this rule shall constitute agency action subject to judicial review pursuant to the Colorado Administrative Procedures Act at Section 24-4-106, C.R.S.

Rule 7 Reporting Convictions, Judgments and Administrative Proceedings

The purpose of the rule is to clarify the procedures for reporting convictions, and other adverse actions to include judgments and administrative proceedings pursuant to Sections 12-29.5-103, 12-29.5-104 and 12-29.5-106, C.R.S.

A licensee as defined in Section 12-29.5-102, C.R.S., shall inform the Director, in a manner set forth by the Director, within thirty (30) days of any of the following events:

A. The conviction of the licensee of a felony under the laws of any state or of the United States, which would be a violation of Section 12-29.5-106, C.R.S. A guilty verdict, a plea of guilty or a plea of nolo contendere (no contest) accepted by the court is considered a conviction;

B. A disciplinary action imposed upon the licensee by another jurisdiction that licenses acupuncturists, which would be a violation of Section 12-29.5-106, C.R.S., including, but not limited to, a citation, sanction, probation, civil penalty, or a denial, suspension, revocation, or modification of a license whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license fee by the due date or failure to meet continuing professional education requirements;

C. Revocation or suspension by another state board, municipality, federal or state agency of any health services related license, other than a lapsed license for acupuncture as described in Section 12-29.5-106, C.R.S.;

D. Any judgment, award or settlement of a civil action or arbitration in which there was a final judgment or settlement against the licensee for malpractice of acupuncture.

Office of Acupuncture Licensure Rules Effective May 30, 2016

7

E. The notice to the Director shall include the following information;

1. If the event is an action by a governmental agency (as described above), the name of the agency, its jurisdiction, the case name, court docket, proceeding or case number by which the event is designated, and a copy of the consent decree, order or decision;

2. If the event is a felony conviction, the court, its jurisdiction, the case name, the case number, a description of the matter or a copy of the indictment or charges, and any plea or verdict entered by the court. The licensee shall also provide to the Director a copy of the imposition of sentence or judgment, whether deferred or immediate, related to the felony conviction and the completion of all terms of the sentence or judgment with thirty (30) days of such action;

3. If the event concerns a civil action or arbitration proceeding, the court or arbiter, the jurisdiction, the case name, the case number, court docket, a description of the matter or a copy of the complaint, and a copy of the verdict, the court or arbitration decision, or, if settled, the settlement agreement and court's order of dismissal;

F. The licensee notifying the Director may submit a written statement with the notice to be included

with the licensee records.

Rule 8 Exceptions and Director's Review of Initial Decisions (Repealed)

Rule 9 Duty to Self-Report Certain Medical Conditions (Section 12-29.5-108.5, C.R.S.)

A. No later than 30 days from the date a physical or mental illness or condition that affects a licensee's ability to perform acupuncture services with reasonable skill and safety, the licensee shall provide the Director, in writing, the following information:

1. The diagnosis and a description of the illness or condition;
2. The date that the illness or condition was first diagnosed;
3. The name of the current treatment provider and documentation from the current treatment provider confirming the diagnosis, date of onset, and treatment plan; and
4. A description of the acupuncturist's practice and any modifications, limitations or restrictions to that practice that have been made as a result of the illness or condition.

B. The licensee shall notify the Director of any worsening of any worsening of the illness or condition, or any significant change in the illness or condition that affects the licensee's ability to practice with reasonable skill and safety, within 30 days of the change of the illness or condition. The acupuncturist shall provide to the Director, in writing, the following information:

1. The name of the current treatment provider, documentation from the current treatment provider confirming the change of the illness or condition, the date that the illness or condition changed, the nature of the change of the illness or condition, and the current treatment plan; and
2. A description of the licensee's practice, and any modifications, limitations, or restrictions to that practice that have been made as a result of the change of condition.

C. Compliance with this rule is a prerequisite for eligibility to enter into a Confidential Agreement with the Director pursuant to Section 12-29.5-108.5(2), C.R.S. However, mere compliance with this rule does not require the Director to enter into a Confidential Agreement. Rather, the Director will evaluate all facts and circumstances to determine whether a Confidential Agreement is appropriate.

D. If the Director discovers that a licensee has a mental or physical illness or condition that affects the licensee's ability to practice with reasonable skill and safety, and the licensee has not timely notified the Director of such illness or condition, the licensee may be subject to disciplinary action pursuant to Section 12-29.5-106(1)(l), C.R.S.

Rule 10 Injection Therapy

A. Definitions. For purposes of this rule only:

1. The Director recognizes that "Injection therapy" is the stimulation of acupuncture points, including trigger points (historically known as "AHSI" points), by the injection of saline, sterile herbs, vitamins, minerals, homeopathic substances, glucose, lidocaine, procaine, and sarapin, or other similar substances specifically manufactured for nonintravenous injection by means of hypodermic needles.

B. Except as restricted by paragraph (C) of this rule, an acupuncturist with an active license may practice injection therapy in the treatment of patients in his or her care,

C. Requirements to Practice Injection Therapy. The acupuncturist shall:

1. possess a Colorado acupuncture license in good standing;

2. hold a current Clean Needle Technique Certificate through the NCCAOM (or successor organization); and
3. be current in basic life support (BLS) or cardiopulmonary resuscitation (CPR) approved by the American Heart Association or American Red Cross;
4. complete educational coursework covered in subsection D.

D. Acupuncturists employing injection therapy shall use only those substances and techniques for which they have received training. Required Educational Coursework shall include:

1. Anatomy and Physiology
2. Acupuncture physical exam and differential diagnosis;
3. Acupuncture point location, including underlying anatomy;
4. Acupuncture needling technique;
5. General injection safety;
3. Acupuncture point injection therapy;
7. Pharmacology; and
8. Clean Needle Technique.

Office of Acupuncture Licensure Rules Effective May 30, 2016

9

9. For the use of injectable substances prepared from oriental herbs, completion of training in Chinese herbology and injection of Chinese herbal injectables is required.

To demonstrate satisfying the training requirements in Chinese herbology and injection of Chinese herbal injectables the Director will accept NCCAOM, or a successor organization's, certification in Chinese herbology and/or certification in Oriental

Medicine.

10. For the use of substances listed in (E)(3)(a)(12-17), instruction on the use of inhaled O2 and IM epinephrine for emergency use is required.

E. Permissible Substances

1. An acupuncturist shall comply with all federal and state laws that pertain to obtaining, possessing and administering any drug;
2. A substance shall only be approved for use if procured in compliance with all federal and state laws;
3. The following drugs are authorized in the modes of administration that are specified except as limited or restricted by federal or state law:
 - a. Permissible substances that an acupuncturist may obtain for injection therapy as permitted per Section 12-29.5-102(3.3), C.R.S and as permitted by the Director per Section 12-29.5-102(3), C.R.S. are:
 - (1) Dextrose;
 - (2) d-glucose;
 - (3) Enzymes except urokinase;
 - (4) Glucose;
 - (4) Homeopathic Substances (to only include those that are within the US Pharmacopia);
 - (5) Hyaluronic Acid;
 - (6) Minerals;
 - (7) Saline;
 - (8) Sarapin;
 - (9) Sodium chloride;

- (9) Sterile water;
- (10) Traumeel;
- (11) Vitamins;
- (12) Cyanocobalamin;

Office of Acupuncture Licensure Rules Effective May 30, 2016

10

- (13) Lidocaine;
- (14) Marcaine (Bupivacaine Hydrochloride) with or without epinephrine;
- (15) Oriental Herbs
- (16) Procaine ; and
- (17) Vitamin B-12.

F. Patient safety.

1. Acupuncturists shall have an adverse event/emergency plan in place.
2. An acupuncturist practicing injection therapy of substances listed in (E)(3)(a)(12)-(17) shall be equipped and trained to treat patients with oxygen and epinephrine. The oxygen and emergency epinephrine kit shall be on site where injection therapy utilizing substances with potential allergic side effects are being rendered.
3. An acupuncturist authorized to practice injection therapy shall not inject any substance intravenously.

G. Acupuncturists shall show current medical malpractice coverage for this procedure and maintain

coverage.

1. It is the acupuncturist's responsibility to only inject substances that are listed in subsection E and are explicitly covered by the acupuncturist's insurance policy obtained in compliance with Section 12-29.5-104(6),