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MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

To: Mississippi Secretary of State

From: Mississippi State Board of Medical Licensure

Date: July 29, 2009

Subject: Notice of Proposed Rule Adoption

Mississippi Code §73-43-11 gives the Mississippi State Board of Medical Licensure the authority to promulgate and publish reasonable rules and regulations necessary to enable it to discharge its functions and to enforce the provisions of law regulating the practice of medicine and the conduct of physicians.

This amendment defines the scope of practice, qualifications for licensure, practice standards, renewal schedule, and other Board requirements pertaining to the practice of acupuncturists in the state.

Any comments concerning the proposed regulation may be sent to the following address:

Mississippi State Board of Medical Licensure
1867 Crane Ridge Drive, Suite 200-B
Jackson, MS 39216

Chapter 17 The Practice of Acupuncture

Scope

100 The following regulations pertain to acupuncture practitioners performing the technique of acupuncture for a patient only if the patient has received a written referral or prescription for acupuncture from a Mississippi currently licensed physician.

101 The practitioner shall perform the technique of acupuncture under the general supervision of the patient's referring or prescribing physician. General supervision does not require that the acupuncturist and physician practice in the same office.

102 While treating a patient, the practitioner shall not make a medical diagnosis, but may provide pattern differentiation according to Traditional Chinese Medicine. If a patient's condition is not improving or a patient requires emergency medical treatment, the practitioner shall consult promptly with a physician.

Definitions

200 For the purpose of Chapter 17 only, the following terms have the meanings indicated:

1. "Board" means the Mississippi State Board of Medical Licensure.
2. "Council" means the Mississippi Council of Advisors in Acupuncture.
3. "NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine.
4. "ACAOM" means the Accreditation Commission of Acupuncture and Oriental Medicine.
5. "CCAOM" means the Council of Colleges of Acupuncture and Oriental Medicine.

Qualifications for Licensure

300 On or after July 1, 2009, applicants for acupuncture licensure must meet the following requirements:

1. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
2. Satisfy the Board that he or she is a citizen or permanent resident of the United States of America.
3. Submit an application for license on a form supplied by the Board, completed in every detail with a recent photograph (wallet-size/passport type) attached. A Polaroid or informal snapshot will not be accepted.
4. Pay the appropriate fee as determined by the Board.
5. Present a certified copy of birth certificate or valid and current passport.
6. Submit proof of legal change of name if applicable (notarized or certified copy of marriage or other legal proceeding).
7. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as an acupuncturist.

8. Provide favorable references from two (2) acupuncturists licensed in the United States with whom the applicant has worked or trained.
9. Provide proof, directly from the institution, of successful completion of an educational program for acupuncturists that are in candidacy status or accredited by ACAOM, NCCAOM or its predecessor or successor agency that is at least three (3) years in duration and includes a supervised clinical internship to ensure that applicants with an education outside the US are recognized because of the NCCAOM review process for foreign applicants.
10. Pass the certification examinations administered by the NCCAOM and have current NCCAOM Diplomate status in Acupuncture or Oriental Medicine that is consistent with one of the following:
    a. If taken before June 1, 2004, pass the Comprehensive Written Exam (CWE), the Clean Needle Technique portion (CNTP), and the Practical Examination of Point Location Skills (PEPLS).
    b. If taken on or after June 1, 2004, and before January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module, Point Location Module and Biomedicine Module.
    c. If taken on or after January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module with Point Location Module, and the Biomedicine Module.
11. If applicant is a graduate of an international educational program, provide proof that the applicant is able to communicate in English as demonstrated by one of the following:
    a. Passage of the NCCAOM examination taken in English.
    b. Passage of the TOEFL (Test of English as a Foreign Language) with a score of 560 or higher on the paper based test or with a score of 220 or higher on the computer based test.
    c. Passage of the TSE (Test of Spoken English) with a score of 50 or higher.
    d. Passage of the TOEIC (Test of English for International Communication) with a score of 500 or higher.
12. Provide proof of successful completion of a CCAOM-approved clean needle technique course sent directly from the course provider to the Board.
13. Provide proof of current cardiopulmonary resuscitation (CPR) certification from either the American Heart Association or the American Red Cross.
14. Provide proof of malpractice insurance with a minimum of $1 million dollars in coverage.
15. Appear for a personal interview in the office of the Mississippi State Board of Medical Licensure and pass the Jurisprudence Examination as administered by the Board.

Practice Standards

400 Before treatment of a patient the acupuncturist shall be sure that the patient has been examined and referred by a licensed physician and shall review the diagnosis for which the patient is receiving treatment.

401 The acupuncturist shall obtain informed consent from the patient after advising them of potential risks and benefits of acupuncture treatment plan.

402 The acupuncturist shall obtain a written prescription from the patient's licensed physician.

403 The acupuncturist shall obtain a detailed medical history that would identify contraindications to acupuncture such as a bleeding disorder.

404 An acupuncture practitioner will use sterilized equipment that has been sterilized according to standards of the national centers for disease control and prevention.

405 An acupuncturist shall comply with all applicable state and municipal requirements regarding public health.

Patient Records

500 A licensed acupuncturist shall maintain a complete and accurate record of each patient that they treat. The record shall include:

1. Name and address of the patient and other appropriate identifying information
2. Written referral from physician
3. The acupuncturist's evaluation of the patient including patient history examination and diagnosis
4. Informed consent
5. Documentation of treatment including points treated
6. Evidence of instructions given to patient

501 Patient records must be maintained for a period of seven (7) years from the date of last treatment.

502 At patient's request, the acupuncturist shall provide the patient or other authorized person a copy of the acupuncture record. Refer to Board regulation Chapter 08, Release of Medical Records.

503 Acupuncturists are subject to a peer review process conducted by the Council.

Supervision

600 Any acupuncturist licensed to practice as an acupuncturist in this state shall perform the technique of acupuncture for a patient only if the patient has received a written referral or prescription for acupuncture from a physician. As specified in the referral or prescription, the Mississippi licensed acupuncturist shall provide reports to the physician on the patient's condition or progress in treatment and comply with the conditions or restrictions on the acupuncturist's course of treatment.

601 The acupuncturist shall perform the technique of acupuncture under the general supervision

of the patient's referring or prescribing physician. General supervision does not require that the acupuncturist and physician practice in the same office.

602 Before treating a patient, the acupuncturist shall advise the patient that acupuncture is not a substitute for conventional medical diagnosis and treatment and shall obtain the informed consent of the patient.

603 On initially meeting a patient in person, the acupuncturist shall provide in writing the acupuncturist's name, business address, and business telephone number, and information on acupuncture, including the techniques that are used.

604 While treating a patient, the acupuncturist shall not make a diagnosis. If a patient's condition is not improving or a patient requires emergency medical treatment, the acupuncturist shall consult promptly with a physician.

Supervising Physician Limited

700 Before making the referral or prescription for acupuncture, the physician shall perform a medical diagnostic examination of the patient or review the results of a medical diagnostic examination recently performed by another physician.

701 The physician shall make the referral or prescription in writing and specify in the referral or prescription all of the following:

1. The physician's diagnosis of the ailment or condition that is to be treated by acupuncture;
2. A time by which or the intervals at which the acupuncturist must provide reports to the physician regarding the patient's condition or progress in treatment; and
3. The conditions or restrictions placed on the acupuncturist's course of treatment.

702 The physician shall be personally available for consultation with the acupuncturist. If the physician is not on the premises at which acupuncture is performed, the physician shall be readily available to the practitioner through some means of telecommunication and be in a location that under normal circumstances is not more than sixty (60) minutes travel time away from the location where the practitioner is practicing.

Duty to Notify Board of Change of Address

800 Any acupuncturist who is licensed to practice as an acupuncturist in this state and changes their practice location shall immediately notify the Board in writing of the change of location. Failure to notify within 30 days could result in disciplinary action.

Continuing Education

900 Every acupuncturist must earn or receive not less than thirty (30) hours of acupuncture related continuing education courses as precedent to renewing their license for the next fiscal

year. This thirty (30) hours is per two-year cycle. Excess hours may not be carried over to another two-year cycle. *For the purpose of this regulation, the two-year period begins July 1, 2010, and every two years thereafter.* Continuing education courses must be sponsored and/or approved by one of the following organizations:

1. Mississippi Council of Advisors in Acupuncture
2. Mississippi Oriental Medicine Association
3. American Association of Acupuncture and Oriental Medicine
4. National Certification Commission for Acupuncture and Oriental Medicine
5. American Acupuncture Council

901 All persons licensed as acupuncturists must comply with the following continuing education rules as a prerequisite to license renewal.

1. Acupuncturists receiving their initial license to perform acupuncture in Mississippi after June 30 are exempt from the minimum continuing education requirement for the two-year period following their receiving a license. The thirty (30) hour continuing education certification will be due within the next two-year cycle.
2. The approved hours of any individual course or activity will not be counted more than once in a two (2) year period toward the required hour total regardless of the number of times the course or activity is attended or completed by any individual.
3. The Board may waive or otherwise modify the requirements of this rule in cases where there is illness, military service, disability or other undue hardship that prevents a license holder from obtaining the requisite number of continuing education hours. Requests for waivers or modification must be sent in writing to the Executive Director prior to the expiration of the renewal period in which the continuing education is due.

Violations

1000 Any acupuncturist who falsely attests to completion of the required continuing education may be subject to disciplinary action pursuant to 2009 HB 458 Section 17 and 18.

1001 Any acupuncturist that fails to obtain the required continuing education may be subject to disciplinary action pursuant to 2009 HB 458 Section 17 and 18, and may not be allowed to renew license.

1002 Continuing education obtained as a result of compliance with the terms of the Board Orders in any disciplinary action shall not be credited toward the continuing education required to be obtained in any two (2) year period.

Renewal Schedule

1100 The license of every person licensed to practice as an acupuncturist in the state of Mississippi shall be renewed annually.

1101 On or before May 1 of every year, the State Board of Medical Licensure shall notify every

acupuncturist to whom a license was issued or renewed during the current licensing period of the forthcoming annual renewal of license. The notice shall provide instructions for obtaining and submitting applications for renewal. The applicant shall obtain and complete the application and submit it to the Board in the manner prescribed by the Board in the notice before June 30 with the renewal fee of an amount established by the Board. The payment of the annual license renewal fee shall be optional with all acupuncturists over the age of seventy (70) years. Upon receipt of the application and fee, the Board shall verify the accuracy of the application and issue to applicant a license of renewal for the ensuing one (1) year period, beginning July 1 and expiring June 30 of the succeeding licensure period.

1102 An acupuncturist practicing in Mississippi who allows their license to lapse by failing to renew the license as provided in Section 1201 may be reinstated by the Board on satisfactory explanation for such failure to renew, by completion of a reinstatement form, and upon payment of the renewal fee for the current year. If the license has not been renewed within ninety (90) days after its expiration, the renewal shall be assessed a late fee of $200.

1103 Any acupuncturist who allows their license to lapse shall be notified by the Board within thirty (30) days of such lapse.

1104 Any acupuncturist who fails to renew their license within four (4) years after its expiration may not renew that license. The license will become null and void and the acupuncturist will have to apply for and obtain a new license.

1105 Any person practicing as an acupuncturist during the time their license has lapsed shall be considered an illegal practitioner and shall be subject to 2009 HB 458 Section 17 and 18.

Professional Ethics

1200 All license holders shall comply with the Code of Ethics adopted by the NCCAOM except to the extent that they conflict with the laws of the State of Mississippi or the rules of the Board. If the NCCAOM Code of Ethics conflicts with state law or rules, the state law or rules govern the matter. Violation of the Code of Ethics or state law or rules may subject a license holder to disciplinary action pursuant to Section 1000.

Disciplinary Proceedings

1300 Hearing Procedure and Appeals
No individual shall be denied a license or have their license suspended, revoked or restriction placed thereon, unless the individual licensed as an acupuncturist has been given notice and opportunity to be heard. For the purpose of notice, disciplinary hearings and appeals, the Board hereby adopts and incorporates by reference all provisions of the "Rules of Procedure" now utilized by the Board for those individuals licensed to practice medicine in the state of Mississippi.

1302 Reinstatement of License

1. A person whose license to practice as an acupuncturist has been revoked, suspended, or otherwise restricted may petition the Mississippi State Board of Medical Licensure to reinstate their license after a period of one (1) year has elapsed from the date of the revocation or suspension. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Sections 93-11-157 or 93-11-163, as the case may be.
2. The petition shall be accompanied by two (2) or more verified recommendations from physicians or acupuncturists licensed by the Board of Medical Licensure to which the petition is addressed and by two (2) or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed and such facts as may be required by the Board of Medical Licensure.

   The petition may be heard at the next regular meeting of the Board of Medical Licensure but not earlier than thirty (30) days after the petition was filed. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he or she is under probation or parole. The hearing may be continued from time to time as the Board of Medical Licensure finds necessary.
3. In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Board of Medical Licensure may investigate and consider all activities of the petitioner since the disciplinary action was taken against him or her, the offense for which he or she was disciplined, their activity during the time their license was in good standing, their general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.

Impaired Acupuncturists

1400 Any individual licensed to practice as an acupuncturist, shall be subject to restriction, suspension, or revocation in the case of disability by reason of one or more of the following:

mental illness, or

physical illness, including but not limited to deterioration through the aging process, or loss of motor skills

excessive use or abuse of drugs, including alcohol

1401 If the Board has reasonable cause to believe that an acupuncturist is unable to practice with reasonable skill and safety to patients because of one or more of the conditions described above, referral of the acupuncturist shall be made, and action taken, if any, in the manner as provided in Sections 73-25-55 through 73-25-65, including referral to the Mississippi Professionals Health Program, sponsored by the Mississippi State Medical Association.

Use of Professional Titles

1500 A licensee shall use the title "Acupuncturist" or "Licensed Acupuncturist," "Lic. Ac.," or "L.Ac.," immediately following his/her name on any advertising or other materials visible to the public which pertain to the licensee's practice of acupuncture. Only persons licensed as an acupuncturist may use these titles. A licensee who is also licensed in Mississippi as a physician, dentist, chiropractor, optometrist, podiatrist, and/or veterinarian is exempt from the requirement that the licensee's acupuncture title immediately follow his/her name.

Acupuncture Advertising

1600 Misleading or deceptive advertising. Acupuncturists shall not authorize or use false, misleading, or deceptive advertising, and, in addition, shall not engage in any of the following:

1. Hold themselves out as a physician or surgeon or any combination or derivative of those terms unless also licensed by the Board of Medical Licensure as a physician as defined under the Mississippi Medical Practice Act.
2. Use the terms "board certified" unless the advertising also discloses the complete name of the board which conferred the referenced certification.
3. Use the terms "board certified" or any similar words or phrases calculated to convey the same meaning if the advertised board certification has expired and has not been renewed at the time the advertising in question was published, broadcast, or otherwise promulgated.
4. Marketing and sale of nutritional supplements, vitamins and herbs or botanical substances in the practitioner's office is prohibited.

Effective Date of Regulations

1700 The above rules and regulations pertaining to the practice of acupuncturists shall become effective _____, 2009.