

RULES AND REGULATIONS
FOR LICENSING
DOCTORS OF ACUPUNCTURE
AND ACUPUNCTURE ASSISTANTS
(R5-37.2-ACU)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Health

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with the provisions of section 42-35-4.1 of
the Rhode Island General Laws, as
amended)**

INTRODUCTION

These *Rules and Regulations For Licensing Doctors of Acupuncture and Acupuncture Assistants (R5-37-.2-ACU)* promulgated pursuant to the authority conferred under section 5-37.2-7(3) of the General Laws of Rhode Island, as amended, are established for the purpose of adopting minimal standards for the licensure of doctors of acupuncture and acupuncture assistants in this state.

Pursuant to the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, the following issues were given consideration in arriving at the regulations: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations; (3) significant economic impact on small business as defined in Chapter 42-35 of the Rhode Island General Laws, as amended. No duplication, overlap, alternative approach or significant economic impact was identified and the regulations are adopted in the best interest of the public.

These amended regulations shall supersede any previous *Rules and Regulations for the Licensing of Doctors of Acupuncture and Acupuncture Assistants* promulgated by the Rhode Island Department of Health and filed with the Secretary of State.

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PART I *DEFINITIONS*

Section 1.0 *Definitions*

Wherever used in these rules and regulations the following terms shall be construed as follows:

- 1.1 *"Act"* refers to Chapter 5-37.2 of the General Laws of Rhode Island, as amended, entitled, "The Healing Art of Acupuncture."
- 1.2 *"Acupuncture"* means the insertion of needles into the human body by piercing the skin of the body, for the purpose of controlling and regulating the flow and balance of energy in the body.
- 1.3 *"Department"* refers to the Rhode Island Department of Health.
- 1.4 *"Director"* refers to the Director of the Rhode Island Department of Health.
- 1.5 *"Doctor of Acupuncture"* means a person who has been licensed under the provisions of Chapter 5-37.2 of the General Laws of Rhode Island, as amended, to practice the art of healing known as acupuncture.
- 1.6 *"Licensed acupuncture assistant"* means a person who assists in the practice of acupuncture under the direct supervision of a person licensed under the statutory and regulatory provisions herein.

PART II *Licensure Requirements for Doctor of Acupuncture and Acupuncture Assistant*

Section 2.0 *General Requirements*

- 2.1 No person shall engage in the practice of acupuncture or any branch thereof in this state without holding a valid license as a doctor of acupuncture or acupuncture assistant issued by the Department pursuant to the statutory and regulatory provisions herein.
 - 2.1.1 Unless licensed as a doctor of acupuncture under the Act, or exempt from licensure under the provisions of the Act, no person shall practice or hold himself/herself out as practicing, or engaging in the practice of acupuncture, either for compensation or gratuitously.
- 2.2 Exempt from the provisions of these rules and regulations are physicians authorized to practice acupuncture pursuant to section 5-37-20 of the General Laws of Rhode Island, as amended.
- 2.3 The Act shall not be construed to make unlawful the activities of persons involved in research performed under the auspices of a federal or state regulated research institution.
- 2.4 Pursuant to the requirements of section 5-37.2-12.4 of the Act, any acupuncturist validly licensed, certified, or registered under prior law of this state shall be deemed as licensed under the provisions of the Act. A previously licensed, certified, or registered acupuncturist shall only perform those professional duties and responsibilities that are in accordance with his/her professional education, training, and/or experience.
- 2.5 All acupuncturists licensed in accordance with these rules and regulations shall not accept or perform professional responsibilities which the licensee knows or has reason to know that such person is not qualified by training, experience, or certification to perform. Violation of this section shall subject the licensee to the revocation or suspension of his/her license.

Section 3.0 *Qualifications for Licensure*

Doctor of Acupuncture:

- 3.1 No person shall be licensed as a doctor of acupuncture unless he or she has passed the examination by the National Commission for the Certification of Acupuncture and Oriental Medicine.
- 3.2 Before any applicant shall be eligible for licensure, he or she shall furnish satisfactory proof that he or she:
 - (a) Is a United States citizen or legal alien;
 - (b) Has demonstrated proficiency in the English language by successfully completing the test administered by the National Commission for the Certification of Acupuncture and Oriental Medicine in English or by successfully completing the Test of English as a Foreign Language (TOEFL);

- (c) Is at least twenty one (21) years of age;
- (d) Is of good moral character;
- (e) Has completed an accredited program of at least thirty six (36) months and not less than twenty five hundred (2500) hours of training and has received a certificate or diploma from an institute approved by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine, according to the provisions of the Act; provided, however, the provisions of this subsection shall not apply to anyone licensed to practice under Chapter 37 of Title 5 who is qualified to take and pass the test by the National Commission for the Certification of Acupuncture and Oriental Medicine;
- (f) Has completed a clinical internship training as may be designated as appropriate by the National Commission for the Certification of Acupuncture and Oriental Medicine; and
- (g) Has three (3) letters of reference from reputable individuals other than relatives and at least two (2) of which shall be from licensed or registered doctors of acupuncture.
- (h) meets such other requirements as may be established by the Director.

3.3 ***Acupuncture Assistant:***

Pursuant to section 5-37.2-13 of the Rhode Island General Laws, as amended, an applicant seeking licensure for acupuncture assistant in this state must:

- a) be of good moral character and have attained the age of twenty one (21) or older;
- b) have successfully completed a course of study in acupuncture in any college or school in any country, territory, province or state requiring any attendance to thirty-six (36) months;
- c) have practiced acupuncture for not less than three (3) years;
- d) have satisfactorily passed the examination of the Department for acupuncture assistants; and
- e) meet such other requirements as may be established by the Director.

Section 4.0 ***Application for Licensure and Fees***

4.1 ***Doctor of Acupuncture:***

An applicant for examination for licensure as doctor of acupuncture shall submit to the Division an application form provided by the Division which shall be completed, notarized and which shall be accompanied by the following documents and fees (non-refundable and non-returnable):

- a) Three (3) letters of reference from reputable individuals other than relatives and at least two (2) of which shall be from licensed or registered doctors of acupuncture or acupuncturists;

- b) a certified copy of birth certificate; or

if a certified copy of birth certificate cannot be obtained, immigration papers or resident alien card or such other birth verifying papers acceptable to the Department;
- c) a recent identification photograph of the applicant, head and shoulder front view approximately 2 x 3 inches in size;
- d) a chronological resume of experience from the time of graduation from college or school of acupuncture to the date of application;
- e) a statement from the Board of Examiners in Acupuncture in each state in which the applicant has held or holds licensure or registration to be submitted to the Division of this state attesting to the licensure status of the applicant during the time period applicant held licensure or registration in said state(s);
- f) supporting certified transcripts of education credentials as required in the appropriate section of 3.0 herein. Such documentation must consist of original statements and/or photocopies bearing the signature of the dean or registrar and the imprint of the school seal;
- g) the results of the examination submitted to the Division directly by the National Commission for the Certification of Acupuncture and Oriental Medicine;
- h) the application fee of one-hundred twenty-five dollars (\$125.00) made payable by money order or check to the General Treasurer, state of Rhode Island (non-refundable); and
- i) such other information as may be deemed necessary and appropriate by the Director.

Section 5.0 *Examination*

5.1 *BY EXAMINATION:*

5.1.1 *Doctor of Acupuncture:*

Applicants shall be required to pass the National Commission for the Certification of Acupuncture and Oriental Medicine examination to test the applicant's knowledge and skills to practice acupuncture in this state pursuant to the statutory and regulatory provisions herein.

5.1.2 *Acupuncture Assistants:*

Applicants seeking licensure as acupuncture assistants shall be required to pass such written examination as determined by the Director.

5.2 *RE-EXAMINATION:*

5.2.1 *Doctor of Acupuncture:*

An applicant shall be entitled to re-examination in accordance with the policies of the National Commission for the Certification of Acupuncture and Oriental Medicine.

5.2.2 *Acupuncture Assistant:*

An acupuncture assistant who fails the written examination shall be entitled to re-examination in accordance with procedures determined by the Department.

5.3 ***WITHOUT EXAMINATION:***

The Department may, at its discretion, issue a license without examination to a doctor of acupuncture who has been licensed, certified, or otherwise formally legally recognized as an acupuncturist in any state or territory if all three of the following conditions are met to its satisfaction:

- (a) The applicant meets the requirements of practice in the state or territory in which the applicant is licensed, certified or registered as an acupuncturist;
- (b) The requirements for practice in the state or territory in which the applicant is licensed, certified or registered as an acupuncturist are at least as stringent as those of this state; and
- (c) The state or territory in which the applicant is licensed, certified, or legally recognized as an acupuncturist permits a practitioner licensed in this state to practice acupuncture in that jurisdiction.

5.4 Sites and schedules of examinations may be obtained directly from the national examination service or from the Division.

Section 6.0 ***Issuance and Renewal of License***

6.1 Upon completion of the aforementioned requirements, the Director may issue a license to those applicants found to have satisfactorily met all the requirements herein pertaining to either doctor of acupuncture or acupuncture assistant based on the applicant's licensure request. Said license unless sooner suspended or revoked shall expire annually on the 1st of February of each year.

6.2 On or before the first day of December in each year, the Administrator of the Division shall mail an application fee renewal of license to every person to whom a license has been issued or renewed during the current year. Every person licensed who intends to practice as a doctor of acupuncture or acupuncture assistant during the ensuing year shall file a renewal application fully executed together with the renewal fee made payable by check or money order to the General Treasurer, State of Rhode Island as follows:

Doctor of Acupuncture.....renewal fee of three hundred twelve dollars and fifty cents (\$312.50)

Acupuncture Assistant.....renewal fee of one hundred eighty-seven dollars and fifty cents (\$187.50)

Said application and renewal fee must be submitted to the Division on or before the first day of January in each year.

- 6.3 Upon receipt of a renewal application and payment of fee, the accuracy of the application shall be verified and a license renewal shall be granted effective 1 February of that year.
- 6.4 If the holder of a license fails to pay the licensure fee, his or her license shall be suspended. The license may be reinstated by payment of the required fee within ninety (90) days after the first of February in each given year.

Section 7.0 ***Continuing Education***

- 7.1 Mandatory continuing education requirements for a doctor of acupuncture licensed in this state, shall include, but not be limited to the following:
- (a) Each person licensed under the Act, whether or not residing within this state, shall complete twenty (20) hours of continuing education within each annual renewal period (i.e., each year), except during the initial annual renewal period.
 - (b) Continuing education hours will be accepted by the Department for course work which has been presented, accepted or approved by a nationally recognized acupuncture organization or its local chapter, or any accredited school of acupuncture.
 - (c) At the time of license renewal, each licensee will be required to attest to the fact of having complied with the above requirements. Course descriptions, proof of attendance or other documentation of completion will be retained by the licensee for a minimum of three (3) years and is subject to random audit by the Department.
 - (i) Failure to produce satisfactory documentation of completion upon request by the Department constitutes grounds for disciplinary action under the provisions of the Act.
 - (d) Each person not obtaining the required number of hours of continuing education may have his or her license renewed for just cause, as determined by the Department, so long as the Department requires that the deficient hours of continuing education, and all unpaid fees, are made up during the following renewal period in addition to the current continuing education requirements for the renewal period. If any doctor of acupuncture fails to make up the deficient hours and complete the subsequent renewal period, or fails to make up unpaid fees, then his or her license shall not be renewed until all fees are paid and all the required hours are completed and documented to the Department.

Section 8.0 ***Recording of License and Display of License***

- 8.1 Pursuant to section 5-37.2-14 of the Act, every person holding a license to practice acupuncture or to serve as an acupuncture assistant in this state shall record his or her license with the city or town hall in the city or town where his or her office and residence are located.
- 8.1.1 Furthermore, every licensee upon a change of residence or office shall have his license recorded in like manner in the municipality to which he or she has changed.

- 8.2 Every licensee shall display in his or her office, place of business or place of employment his or her current license.

Section 9.0 *Denial, Suspension or Revocation of License*

- 9.1 Pursuant to section 5-27.2-15 of the Act, the Department may either refuse to issue or may suspend or revoke any license for anyone or any combination of the following causes:
- (a) Conviction of a felony, conviction of any offense involving moral turpitude or conviction of a violation of any state or federal law regulating the possession, distribution or use of any controlled substance as defined in §21-28-1.02 of the Rhode Island General Laws, as amended, as shown by a certified copy of record of the court;
 - (b) The obtaining of or any attempt to obtain a license or practice in the profession for money or any other thing of value, by fraudulent misrepresentations;
 - (c) Gross malpractice;
 - (d) Advertising by means of knowingly false or deceptive statement;
 - (e) Advertising, practice or attempting to practice under a name other than one's own;
 - (f) Habitual drunkenness or habitual addiction to the use of a controlled substance as defined in §21-28-1.02 of the Rhode Island General Laws, as amended;
 - (g) Using any false, fraudulent or forged statement or document, or engaging in any fraudulent, deceitful, dishonest, immoral practice in connection with the licensing requirement of the Act;
 - (h) Sustaining a physical or mental disability which renders further practice dangerous;
 - (i) Engaging in any dishonorable, unethical or unprofessional conduct which may deceive, defraud or harm the public, or which is unbecoming a person licensed to practice under the Act;
 - (j) Using any false or fraudulent statement in connection with the practice of acupuncture or any branch thereof;
 - (k) Violation or attempting to violate, or assisting or abetting the violation of or conspiring to violate any provision of the Act;
 - (l) Being adjudicated incompetent or insane;
 - (m) Advertising in an unethical or unprofessional manner;
 - (n) Obtaining a fee or financial benefit for any person by the use of fraudulent diagnosis, therapy or treatment;

- (o) Willful disclosure of a privileged communication;
- (p) Failure of a licensee to designate his school of practice in the professional use of his name by the term doctor of acupuncture or acupuncture assistant as the case may be;
- (q) Willful violation of the law relating to the health, safety or welfare of the public or of the rules and regulations promulgated by the state Department of Health;
- (r) Administering, dispensing or prescribing any controlled substance as defined in §21-28-1.02, except for the prevention, alleviation or cure of disease or for relief from suffering;
- (s) Performing, assisting or advising in the injection of any liquid silicone into the human body.

PART III ***VIOLATIONS/ SANCTIONS/ SEVERABILITY***

Section 10.0 ***Violations and Sanctions***

10.1 Any violations of the provisions of the Act and the rules and regulations herein, shall be cause for the Director to impose such sanctions as denial, revocation or suspension of an individual's license or imposing such other disciplinary action pursuant to the provisions of the Act.

Section 11.0 ***Rules Governing Practices and Procedures***

11.1 All hearings and reviews required under the provisions of Chapter 5-37.2 of the General Laws of Rhode Island, as amended, shall be held in accordance with the provisions of the Act and the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Rhode Island Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*.

Section 12.0 ***Severability***

12.1 If any provisions of these rules and regulations or the application thereof to any persons or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.