

CHAPTER 17
LICENSURE OF ACUPUNCTURISTS

653—17.1(148E) Purpose. The licensure of acupuncturists is established to ensure that practitioners are qualified to provide Iowans with safe and healthful care. The provisions of Iowa Code chapters 147, 148E and 272C authorize the board of medicine to establish examination requirements for licensure; evaluate the credentials of applicants for licensure (147.2, 148E.3); grant licenses to qualified applicants (148E.2); institute continuing education requirements (272C.2); investigate complaints and reports alleging that licensed acupuncturists violated statutes and rules governing the practice of acupuncture (147.55, 148E.6); make available participation in the Iowa physician health program (272C.3); and discipline licensed acupuncturists found guilty of infractions as provided in state law and board rules (147.55, 148E.6).

653—17.2(148E) Scope of chapter. The rules in this chapter shall only apply to individuals licensed under Iowa Code chapter 148E. In accordance with Iowa Code section 148E.3, the rules in this chapter shall not apply to the following:

1. A person otherwise licensed by the state to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry who is exclusively engaged in the practice of the person's profession.

2. A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the board.

[ARC 2950C, IAB 2/15/17, effective 3/22/17]

653—17.3(148E) Definitions.

"Accreditation Commission for Acupuncture and Oriental Medicine" or *"ACAOM"* means the United States-based accreditation commission that certifies acupuncture and oriental medicine training programs and colleges. The ACAOM oversees all professional oriental medicine and acupuncture degree programs in the United States. The ACAOM was formerly known as the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

"Acupuncture" means a form of health care developed from traditional and modern oriental medical concepts that employs oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.

"Acupuncture needle" means a solid-core instrument including but not limited to acupuncture needles, dermal needles, intradermal needles, press tacks, plum blossom needles, prismatic needles, and disposable lancets.

"Acupuncture point" means a specific anatomical location on the human body that serves as the treatment site for the use of acupuncture.

"Applicant" means a person not otherwise authorized to practice acupuncture under Iowa Code section 148E.3 who applies to the board for a license.

"Ashi acupuncture point" means an acupuncture point that is located according to tenderness upon palpation. An ashi acupuncture point is also known as a trigger point.

"Board" means the board of medicine established in Iowa Code chapter 147.

"Committee" means the licensure committee of the board with oversight responsibility for administration of the licensure of acupuncturists.

"Department" means the Iowa department of public health.

"Disclosure sheet" means the written information licensed acupuncturists must provide to patients on initial contact.

"Disposable needles" means presterilized needles that are discarded after initial use pursuant to Iowa Code section 148E.5.

"License" means a license issued by the board pursuant to Iowa Code section 148E.2.

"Licensee" means a person holding a license to practice acupuncture issued by the board pursuant to Iowa Code chapter 148E.

“*National Certification Commission for Acupuncture and Oriental Medicine*” or “*NCCAOM*” means the United States-based commission that validates entry-level competency in the practice of acupuncture and oriental medicine through professional certification.

“*Practice of acupuncture*” means the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon oriental medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional oriental medicine concepts.

“*Service charge*” means the amount charged by the board for making a service available online and is in addition to the actual fee for a service itself. For example, one who renews a license online will pay the license renewal fee and a service charge.

[ARC 8707B, IAB 5/5/10, effective 6/9/10; ARC 2950C, IAB 2/15/17, effective 3/22/17]

653—17.4(147,148E) Eligibility for licensure.

17.4(1) Eligibility requirements. To be licensed to practice acupuncture by the board, a person shall meet all of the following requirements:

- a. Fulfill all the application requirements, as specified in 17.5(147,148E).
- b. Hold current active status as a diplomate in NCCAOM or, after June 1, 2004, hold current active status as a diplomate in acupuncture or oriental medicine from NCCAOM.
- c. Demonstrate sufficient knowledge of the English language to understand and be understood by patients and board and committee members.
 - (1) An applicant who passed the NCCAOM written and practical examination components in English may be presumed to have sufficient proficiency in English.
 - (2) An applicant who passed NCCAOM written or practical examination components in a language other than English shall pass the Test of Spoken English (TSE) or the Test of English as a Foreign Language (TOEFL) examinations administered by the Educational Testing Service. A passing score on TSE is a minimum of 50. A passing score on TOEFL is a minimum overall score of 550 on the paper-based TOEFL that was administered on a Friday or Saturday (formerly special or international administration), a minimum overall score of 213 on the computer-administered TOEFL, or a minimum overall score of 79 on the Internet-based examination.
- d. Successfully complete a three-year postsecondary training program or acupuncture college program which is accredited by, in candidacy for accreditation by, or which meets the standards of the Accreditation Commission for Acupuncture and Oriental Medicine.
- e. Successfully complete a course in clean needle technique approved by the NCCAOM.

17.4(2) Waiver or variance prohibited. Provisions of this rule are not subject to waiver or variance pursuant to IAC 653—Chapter 3 or any other provision of law.

[ARC 8707B, IAB 5/5/10, effective 6/9/10; ARC 2950C, IAB 2/15/17, effective 3/22/17]

653—17.5(147,148E) Application requirements.

17.5(1) Application for licensure. To apply for a license to practice acupuncture, an applicant shall:

- a. Submit the completed application form provided by the board, including required credentials and documents, a completed fingerprint packet and a sworn statement by the applicant attesting to the truth of all information provided by the applicant;
- b. Pay the nonrefundable initial application fee identified in 653—paragraph 8.2(2)“a”; and
- c. Pay the fee identified in 653—paragraph 8.2(2)“e” for the evaluation of the fingerprint packet and the national criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

17.5(2) Contents of the application form. Each applicant shall submit the following information on the application form provided by the board:

- a. The applicant’s full legal name, date and place of birth, home address, mailing address, principal business address, and personal e-mail address regularly used by the applicant or licensee for correspondence with the board;
- b. A photograph of the applicant suitable for positive identification;

- c. A chronology accounting for all time periods from the date the applicant entered an acupuncture and oriental medicine training program or college to the date of the application;
- d. The other jurisdictions in the United States or other nations or territories in which the applicant is authorized to practice acupuncture, including license, certificate of registration or certification numbers, and date of issuance;
- e. Full disclosure of the applicant's involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories. Copies of the legal documents may be requested if needed during the review process;
- f. A statement disclosing and explaining any informal or nonpublic actions, warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, acupuncture or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction;
- g. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- h. The NCCAOM score report verification form submitted directly to the board by the NCCAOM;
- i. An NCCAOM certificate that demonstrates that the applicant holds current active status as a diplomate in acupuncture or oriental medicine from the NCCAOM;
- j. Proof of successful completion of a course in clean needle technique approved by the NCCAOM;
- k. A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in the practice of acupuncture and provide patients with safe and healthful care;
- l. A description of the applicant's clinical acupuncture training, work experience and, where applicable, supporting documentation;
- m. A copy of the applicant's acupuncture degree issued by an educational institution. If a copy of the acupuncture degree cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained an acupuncture degree from a specific educational institution;
- n. A complete translation of any diploma not written in English. An official transcript, written in English and received directly from the educational institution, showing graduation from an acupuncture training program or an educational institution is a suitable alternative;
- o. A sworn statement from an official of the educational institution certifying the date the applicant received the acupuncture degree and acknowledging what, if any, derogatory comments exist in the institution's record about the applicant. If a sworn statement from an official of the educational institution cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained an acupuncture degree from a specific educational institution;
- p. An official transcript sent directly from an acupuncture training program or an educational institution attended by the applicant and, if requested by the board, an English translation of the official transcript;
- q. Proof of the applicant's proficiency in the English language, when the applicant has not passed the English version of the NCCAOM written and practical examinations;
- r. Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board; and
- s. A completed fingerprint packet to facilitate a national criminal history background check. The fee for evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

17.5(3) Disclosure sheet. Rescinded IAB 2/15/17, effective 3/22/17.

17.5(4) Application cycle. If the applicant does not submit all materials, including a completed fingerprint packet, within 90 days of the board's initial request for further information, the application shall be considered inactive. The board office shall notify the applicant of this change in status.

a. To reactivate the application, an applicant shall submit a nonrefundable reactivation of application fee identified in 653—paragraph 8.2(2)“b” and shall update application materials if requested by the board. The period for requesting reactivation is limited to 30 days from the date the applicant is notified that the application is inactive, unless the applicant is granted an extension in writing by the committee or the board.

b. Once the application reactivation period is expired, applicants must reapply and submit a new, nonrefundable initial application fee and a new application, including required documents and credentials.

17.5(5) Applicant responsibilities. An applicant for licensure to practice acupuncture bears full responsibility for each of the following:

a. Paying all fees charged by regulatory authorities, national testing or credentialing organizations, health facilities, and educational institutions providing the information specified in 17.5(2);

b. Providing accurate, up-to-date, and truthful information on the application form including, but not limited to, that specified under 17.5(2) related to prior professional experience, education, training, examination scores, diplomate status, licensure or registration, and disciplinary history; and

c. Submitting English translations of documents in foreign languages bearing the affidavit of the translator certifying that the translation is a true and complete translation of the foreign language original. The applicant shall bear the expense of the translation.

17.5(6) Licensure application review process. The process below shall be utilized to review each application. Priority shall be given to processing a licensure application when a written request is received in the board office from an applicant whose practice will primarily involve provision of services to underserved populations, including but not limited to persons who are minorities or low-income or who live in rural areas.

a. An application for initial licensure shall be considered open from the date the application form is received in the board office with the nonrefundable initial application fee.

b. After reviewing each application, staff shall notify the applicant about how to resolve any problems identified by the reviewer. An applicant shall provide additional information when requested by staff or the board.

c. If the final review indicates no questions or concerns regarding the applicant’s qualifications for licensure, staff may administratively grant the license. The staff may grant the license without having received a report on the applicant from the FBI.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, the director of licensure and the director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant’s current qualifications for licensure.

(1) If there is no current concern, staff shall administratively grant the license.

(2) If any concern exists, the application shall be referred to the committee.

e. Staff shall refer to the committee for review matters which include but are not limited to: falsification of information on the application, criminal record, malpractice, substance abuse, competency, physical or mental illness, or professional disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to issue the license administratively.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) If an applicant has not engaged in active practice in the past three years in any jurisdiction of the United States, require an applicant to:

1. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;

2. Successfully pass a competency evaluation approved by the board;

3. Successfully pass an examination approved by the board; or

4. Successfully complete a reentry to practice program or monitoring program approved by the board;

- (4) Issue a license;
- (5) Issue a license under certain terms and conditions or with certain restrictions;
- (6) Request that the applicant withdraw the licensure application; or
- (7) Deny a license.

h. The board shall consider applications and recommendations from the committee and shall:

- (1) Request an investigation;
- (2) Request that the applicant appear for an interview;
- (3) If an applicant has not engaged in active practice in the past three years in any jurisdiction of the United States, require an applicant to:

1. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;

2. Successfully pass a competency evaluation approved by the board;

3. Successfully pass an examination approved by the board; or

4. Successfully complete a reentry to practice program or monitoring program approved by the board;

- (4) Issue a license;

- (5) Issue a license under certain terms and conditions or with certain restrictions;

- (6) Request that the applicant withdraw the licensure application; or

- (7) Deny a license. The board may deny a license for any grounds on which the board may discipline a license.

17.5(7) *Grounds for denial of licensure.* The board, on the recommendation of the committee, may deny an application for licensure for any of the following reasons:

a. Failure to meet the requirements for licensure specified in rule 653—17.4(147,148E) as authorized by Iowa Code section 148E.2 or of this chapter of the board's rules.

b. Pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55 and 148E.8 or in rule 653—17.12(147,148E,272C).

17.5(8) *Preliminary notice of denial.* Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that shall be sent to the applicant by regular, first-class mail at the address provided by the applicant. The preliminary notice of denial is a public record and shall cite the factual and legal basis for denying the application, notify the applicant of the appeal process, and specify the date upon which the denial will become final if it is not appealed.

17.5(9) *Appeal procedure.* An applicant who has received a preliminary notice of denial may appeal the denial and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the preliminary notice of denial was mailed. The applicant's current address shall be provided in the request for hearing. The request is deemed filed on the date it is received in the board office. If the request is received with a USPS nonmetered postmark, the board shall consider the postmark date as the date the request is filed. The request shall specify the factual or legal errors and that the applicant desires an evidentiary hearing and may provide additional written information or documents in support of licensure.

17.5(10) *Hearing.* If an applicant appeals the preliminary notice of denial and requests a hearing, the hearing shall be a contested case and subsequent proceedings shall be conducted in accordance with 653—25.30(17A).

a. License denial hearings are contested cases open to the public.

b. Either party may request issuance of a protective order in the event privileged or confidential information is submitted into evidence.

c. Evidence supporting the denial of the license may be presented by an assistant attorney general.

d. While each party shall have the burden of establishing the affirmative of matters asserted, the applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure.

e. The board, after a hearing on license denial, may grant or deny the application for licensure. The board shall state the reasons for its decision and may grant the license, grant the license with restrictions, or deny the license. The final decision is a public record.

f. Judicial review of a final order of the board denying licensure, or issuing a license with restrictions, may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of any agency's final decision in a contested case.

17.5(11) Finality. If an applicant does not appeal a preliminary notice of denial in accordance with 17.5(9), the preliminary notice of denial automatically becomes final. A final denial of an application for licensure is a public record.

17.5(12) Failure to pursue appeal. If an applicant appeals a preliminary notice of denial in accordance with 17.5(9) but the applicant fails to pursue that appeal to a final decision within one year from the date of the preliminary notice of denial, the board may dismiss the appeal. The appeal may be dismissed only after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice shall state that the appeal will be dismissed and the preliminary notice of denial will become final if the applicant does not contact the board to schedule the appeal hearing within 30 days of the date the letter is mailed from the board office. Upon dismissal of an appeal, the preliminary notice of denial becomes final. A final denial of an application for licensure under this rule is a public record.

17.5(13) Waiver or variance prohibited. Provisions of this rule are not subject to waiver or variance pursuant to IAC 653—Chapter 3 or any other provision of law.

[ARC 8707B, IAB 5/5/10, effective 6/9/10; ARC 2950C, IAB 2/15/17, effective 3/22/17]

653—17.6(147,148E) Display of license and disclosure of information to patients.

17.6(1) Display of license. Licensed acupuncturists shall display the license issued by the board in a conspicuous place in their primary place of business.

17.6(2) Distribution and retention of disclosure sheet. Pursuant to Iowa Code section 148E.6, the licensee shall distribute a disclosure sheet on initial contact with patients and retain a copy, signed and dated by the patient, for a period of at least five years after termination of treatment. The disclosure sheet shall include the following:

- a.* The name, business address, and business telephone number of the acupuncturist.
- b.* A fee schedule.
- c.* A listing of the acupuncturist's education, experience, degrees, certificates, or credentials related to acupuncture awarded by professional acupuncture organizations and the length of time required to obtain the degrees or credentials and experience.
- d.* A statement indicating any license, certificate, or registration in a health care occupation that was revoked by any local, state, or national health care agency.
- e.* A statement that the acupuncturist is complying with statutes and rules adopted by the board, including a statement that only presterilized, disposable needles are used by the acupuncturist.
- f.* A statement indicating that the practice of acupuncture is regulated by the board.
- g.* A statement indicating that a license to practice acupuncture does not authorize a person to practice medicine and surgery in this state and that the services of an acupuncturist must not be regarded as diagnosis and treatment by a person licensed to practice medicine and must not be regarded as medical opinion or advice.

[ARC 2950C, IAB 2/15/17, effective 3/22/17]

653—17.7(147,148E,272C) Biennial renewal of license required. Pursuant to Iowa Code section 148E.2, a license expires on October 31 of even-numbered years and can be renewed for the fee identified in 653—paragraph 8.2(2)“c.” The applicant for renewal shall provide an NCCAOM certificate that demonstrates that the applicant holds current active status as a diplomate in acupuncture or oriental medicine from the NCCAOM.

17.7(1) Expiration date. Certificates of licensure to practice acupuncture shall expire on October 31 in even years.

17.7(2) Prorated fees. The first renewal fee for a license shall be prorated on a monthly basis according to the date of issue.

17.7(3) Renewal requirements and penalties for late renewal. Each licensee shall be sent a renewal notice at least 60 days prior to the expiration date. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of responsibility for renewing that license.

a. When online renewal is used, the licensee must complete the online renewal prior to midnight on December 31 in order to ensure that the license will not become inactive. The license becomes inactive and invalid at 12:01 a.m. on January 1.

b. Upon receipt of the completed renewal application, staff shall administratively issue a license that expires on October 31 of even-numbered years. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration.

c. Every renewal shall be displayed in connection with the original certificate of licensure.

d. If the licensee fails to submit the renewal application and renewal fee prior to the expiration date on the current license, a \$50 penalty shall be assessed for renewal in the grace period, a period up until January 1 when the license becomes inactive if not renewed.

17.7(4) Inactive license. Failure of a licensee to renew by January 1 will result in invalidation of the license and the license will become inactive.

a. Licensees are prohibited from engaging in the practice of acupuncture once the license is lapsed.

b. Having an acupuncturist license in lapsed status does not preclude the board from taking disciplinary actions authorized in Iowa Code section 147.55 or 148E.8.

[ARC 8707B, IAB 5/5/10, effective 6/9/10; ARC 2950C, IAB 2/15/17, effective 3/22/17]

653—17.8(147,272C) Reinstatement of an inactive license.

17.8(1) Reinstatement requirements. Licensees who allow their licenses to go inactive by failing to renew may apply for reinstatement of a license. Pursuant to Iowa Code section 147.11, applicants for reinstatement shall:

a. Submit upon forms provided by the board a completed application for reinstatement of a license to practice acupuncture. The application shall include the following information:

(1) The applicant's full legal name, date and place of birth, home address, mailing address, principal business address, and personal e-mail address regularly used by the applicant or licensee for correspondence with the board.

(2) Every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

(3) Full disclosure of the applicant's involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories. Copies of the legal documents may be requested if needed during the review process.

(4) A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, acupuncture or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction.

(5) A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in practice and provided patients with safe and healthful care.

(6) Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board.

(7) A chronology accounting for all time periods from the date of initial licensure.

(8) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

b. Submit a completed fingerprint packet to facilitate a national criminal history background check. The fee identified in 653—paragraph 8.2(2)“*e*” for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

c. Pay the reinstatement fee of \$400 plus the fee identified in 653—paragraph 8.2(2)“*e*” for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

d. Provide an NCCAOM certificate which demonstrates that the applicant holds current active status as a diplomate in acupuncture or oriental medicine from the NCCAOM.

e. Meet any new requirements instituted since the license lapsed.

17.8(2) Reinstatement restrictions. Pursuant to Iowa Code section 272C.3(2)“*d*,” the committee may require an applicant who has not engaged in active practice in the past three years in any jurisdiction of the United States to meet any or all of the following requirements prior to reinstatement of an inactive license:

a. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;

b. Successfully pass a competency evaluation approved by the board;

c. Successfully pass an examination approved by the board; or

d. Successfully complete a reentry to practice program or monitoring program approved by the board.

[ARC 8707B, IAB 5/5/10, effective 6/9/10; ARC 2950C, IAB 2/15/17, effective 3/22/17]

653—17.9(272C) Continuing education requirements. Licensees shall demonstrate that they hold current active status as a diplomate from the NCCAOM. The NCCAOM requires 60 points of professional development activity every four years. Active NCCAOM certification satisfies the continuing education requirements established in Iowa Code section 272C.2.

[ARC 2950C, IAB 2/15/17, effective 3/22/17]

653—17.10(147,148E,272C) General provisions.

17.10(1) Diagnostic and treatment modalities. Diagnostic and treatment modalities used by licensees under this chapter may include one or more of the following acupunctural services:

a. The stimulation or piercing of the skin with an acupuncture needle for any of the following purposes:

(1) To evoke a therapeutic physiological response, either locally or distally to the area of insertion or stimulation.

(2) To relieve pain or treat the neuromusculoskeletal system.

(3) To stimulate ashi acupuncture points to relieve pain and dysfunction.

(4) To promote, maintain, and restore health and to prevent disease.

(5) To stimulate the body according to auricular, hand, nose, face, foot or scalp acupuncture therapy.

(6) To use acupuncture needles with or without the use of herbs, electric current, or application of heat.

b. The use of oriental medical diagnosis and treatment, including:

(1) Moxibustion, cupping, thermal methods, magnets, gua sha scraping techniques, acupatches, herbal poultices, hot and cold packs, electromagnetic wave therapy, light and color therapy, sound therapy, or therapy lasers.

(2) Massage, acupressure, reflexology, shiatsu and tui na massage, or manual stimulation, including stimulation by an instrument or mechanical device that does not pierce the skin.

(3) Herbal medicine and dietary supplements, including those of plant, mineral, animal, and nutraceutical origin.

c. Any other adjunctive service or procedure that is clinically appropriate based on the licensee’s training as approved by NCCAOM or ACAOM.

17.10(2) Use and disposal of needles. A licensee shall use only presterilized, disposable needles and shall provide for the disposal of used needles in accordance with the requirements of the department.

17.10(3) Standard of care. A licensee shall be held to the same standard of care as persons licensed to practice medicine and surgery or osteopathic medicine and surgery. Pursuant to Iowa Code section

272C.3, any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care in the practice of acupuncture constitutes malpractice and is grounds for the revocation or suspension of a license to practice acupuncture in this state.

17.10(4) Title. An acupuncturist licensed under this title may use the words “licensed acupuncturist” or “L.Ac.” to connote professional standing after the licensee’s name in accordance with Iowa Code section 147.74(18).

17.10(5) Change of contact information. Licensees shall notify the board of changes in home address, address of the place of practice, home or practice telephone number, or personal e-mail address regularly used by the applicant or licensee for correspondence with the board within one month of the change.

17.10(6) Delegation of responsibilities. A licensee shall perform all aspects of acupuncture treatment that involve penetration of the skin of a patient. The licensee may delegate other aspects of treatment to staff and patients who are properly trained by the licensee. It is permissible for appropriately trained staff and patients to remove acupuncture needles from the patient’s body. The licensee is responsible for establishing and maintaining written training standards for staff.

17.10(7) Change of full legal name. A licensee shall notify the board of any change in the licensee’s full legal name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

17.10(8) Deceased. A licensee’s file shall be closed and labeled “deceased” when the board receives a copy of the licensee’s death certificate or other reliable information of the licensee’s death.

[ARC 8707B, IAB 5/5/10, effective 6/9/10; ARC 2950C, IAB 2/15/17, effective 3/22/17]

653—17.11(147,148E,272C) General disciplinary provisions. The board is authorized to take disciplinary action against any licensee who violates the provisions set forth in state law and administrative rules pertaining to the safe and healthful practice of acupuncture. This rule is not subject to waiver or variance pursuant to IAC 653—Chapter 3 or any other provision of law.

17.11(1) Methods of discipline. The board may impose any of the following disciplinary sanctions:

- a. Revocation of a license;
- b. Suspension of a license until further order of the board;
- c. Nonrenewal of a license;
- d. Restrict permanently or temporarily the performance of specific procedures, methods, acts or techniques;
- e. Probation;
- f. Additional or remedial education or training;
- g. Reexamination;
- h. Medical or physical evaluation, or alcohol or drug screening within a specific time frame at a facility or by a practitioner of the board’s choice;
- i. Civil penalties not to exceed \$1,000;
- j. Citations and warnings as necessary; and
- k. Other sanctions allowed by law as deemed appropriate.

17.11(2) Discretion of the board. The board may consider the following factors when determining the nature and severity of the disciplinary sanction to be imposed:

- a. The relative seriousness of the violation as it relates to assuring the citizens of Iowa a high standard of professional care.
- b. The facts of the particular violation.
- c. Any extenuating circumstances or other countervailing considerations.
- d. Number of prior violations or complaints.
- e. Seriousness of prior violations or complaints.
- f. Whether remedial action has been taken.
- g. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee.

653—17.12(147,148E,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in 17.11(1) upon determining that a licensee is guilty of any of the following acts or offenses:

17.12(1) *Fraud in procuring a license.* Fraud in procuring a license is the deliberate distortion of facts or use of deceptive tactics in the application for licensure to practice acupuncture including, but not limited to:

- a. Making false or misleading statements in obtaining or seeking to obtain licensure;
- b. Failing to disclose by deliberate omission or concealment any information the board deems relevant to the safe and healthful practice of acupuncture pursuant to Iowa Code chapters 147 and 148E;
- c. Misrepresenting any fact or deed to meet the application or eligibility requirements established by this chapter; or
- d. Filing or attempting to file a false, forged or altered diploma, certificate, affidavit, translated or other official or certified document, including the application form, attesting to the applicant's eligibility for licensure to practice acupuncture in Iowa.

17.12(2) *Professional incompetence.* Professional incompetence includes, but is not limited to:

- a. Substantial lack of knowledge or ability to discharge professional obligations within the scope of the acupuncturist's practice;
- b. Substantial deviation by the licensee from the standards of learning or skill ordinarily possessed and applied by other acupuncturists when acting in the same or similar circumstances;
- c. Failure by an acupuncturist to exercise in a substantial respect the degree of care which is ordinarily exercised by the average acupuncturist when acting in the same or similar circumstances; or
- d. Willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of acupuncture.

17.12(3) *Fraud in the practice of acupuncture.* Fraud in the practice of acupuncture includes, but is not limited to, any misleading, deceptive, untrue or fraudulent representation in the practice of acupuncture, made orally or in writing, that is contrary to the acupuncturist's legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare, and potentially injurious to another. Proof of actual injury need not be established.

17.12(4) *Unethical conduct.* The Code of Ethics (2008) prepared and approved by the NCCAOM shall be utilized by the board as guiding principles in the practice of acupuncture in this state. Unethical conduct in the practice of acupuncture includes, but is not limited to:

- a. Failing to provide patients with the information required in Iowa Code section 148E.6 or providing false information to patients;
- b. Accepting remuneration for referral of patients to other health care professionals;
- c. Offering or providing remuneration for the referral of patients, excluding paid advertisements or marketing services;
- d. Engaging in sexual activity or genital contact with a patient while acting or purporting to act within the scope of the acupuncture practice, whether or not the patient consented to the sexual activity or genital contact;
- e. Disclosing confidential information about a patient without proper authorization; or
- f. Abrogating the boundaries of acceptable conduct in the practice of acupuncture established by the profession that the board deems appropriate for ensuring that acupuncturists provide Iowans with safe and healthful care.

17.12(5) *Practice harmful to the public.* Practice harmful or detrimental to the public in the practice of acupuncture includes, but is not limited to:

- a. Failing to possess and exercise the degree of skill, learning and care expected of a reasonable, prudent acupuncturist acting in the same or similar circumstances;
- b. Practicing acupuncture without reasonable skill and safety as the result of a mental or physical impairment, chemical abuse or chemical dependency;
- c. Prescribing, dispensing or administering any controlled substance or prescription medication for human use; or

d. Performing any treatment or healing procedure not authorized in Iowa Code chapter 148E or this chapter.

17.12(6) *Habitual intoxication or addiction.* Habitual intoxication or addiction to the use of drugs includes, but is not limited to, the inability to practice acupuncture with reasonable skill and safety as a result of the excessive use of alcohol, drugs, narcotics, chemicals or other substances on a continuing basis, or the excessive use of the same in a way which may impair the ability to practice acupuncture with reasonable skill and safety.

17.12(7) *Felony conviction.* A felony conviction related to the practice of acupuncture or that affects the ability to practice the profession includes, but is not limited to:

a. Any conviction for any public offense directly related to or associated with the practice of acupuncture that is classified as a felony under the statutes of any jurisdiction of the United States, the United States government, or another nation or its political subdivisions; or

b. Any conviction for a public offense affecting the ability to practice acupuncture that is classified as a felony under the statutes of any jurisdiction of the United States, the United States government, or another nation or its political subdivisions and that involves moral turpitude, civility, honesty, or morals.

A copy of the record of conviction or plea of guilty or nolo contendere shall be conclusive evidence of the felony conviction.

17.12(8) *Misrepresentation of scope of practice by licensees.* Misrepresentation of a licensee's scope of practice includes, but is not limited to, misleading, deceptive or untrue representations about competency, education, training or skill as a licensed acupuncturist or the ability to perform services not authorized under this chapter.

17.12(9) *False advertising.* False advertising is the use of fraudulent, deceptive or improbable statements in information provided to the public. False advertising includes, but is not limited to:

a. Unsubstantiated claims about the licensee's skills or abilities, the healing properties of acupuncture or specific techniques or treatments therein;

b. Presenting words, phrases, or figures which are misleading or likely to be misunderstood by the average person; or

c. Claiming extraordinary skills that are not recognized by the acupuncture profession.

17.12(10) *General grounds.* The board may also take disciplinary action against an acupuncturist for any of the following reasons:

a. Failure to comply with the provisions of Iowa Code chapter 148E or the applicable provisions of Iowa Code chapter 147, or the failure of an acupuncturist to comply with rules adopted by the board pursuant to Iowa Code chapter 148E;

b. Failure to notify the board of any adverse judgment or settlement of a malpractice claim or action within 30 days of the date of the judgment or settlement;

c. Failure to report to the board any acts or omissions of another acupuncturist authorized to practice in Iowa that would constitute grounds for discipline under 17.12(147,148E,272C) within 30 days of the date the acupuncturist initially became aware of the information;

d. Failure to comply with a subpoena issued by the board;

e. Failure to adhere to the disciplinary sanctions imposed upon the acupuncturist by the board; or

f. Violating any of the grounds for revocation or suspension of licensure listed in Iowa Code chapter 147 or 148E.

[ARC 8707B, IAB 5/5/10, effective 6/9/10; ARC 2950C, IAB 2/15/17, effective 3/22/17]

653—17.13(272C) Procedure for peer review. Rule 653—24.3(272C) shall apply to peer review procedures in matters related to licensed acupuncturists.

653—17.14(272C) Reporting duties and investigation of reports. 653—Chapters 22 and 24 shall apply to certain reporting responsibilities of licensed acupuncturists and the investigation of malpractice cases involving licensed acupuncturists.

653—17.15(272C) Complaints, immunities and privileged communications. 653—Chapter 24 shall apply to matters relating to licensed acupuncturists.

653—17.16(272C) Confidentiality of investigative files. 653—subrule 24.9(2) shall apply to investigative files relating to licensed acupuncturists.

653—17.17 to 17.28 Reserved.

653—17.29(17A,147,148E,272C) Disciplinary procedures. 653—Chapter 25 shall apply to disciplinary actions against licensed acupuncturists.

653—17.30(147,148E,272C) Waiver or variance prohibited. Fees in this chapter are not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law.

These rules are intended to implement Iowa Code sections 17A.10 to 17A.20, 147.55, 272C.3 to 272C.6, 272C.8 and 272C.9 and Iowa Code chapter 148E as amended by 2000 Iowa Acts, chapter 1053.

[Filed 1/10/94, Notice 11/24/93—published 2/2/94, effective 3/9/94]

[Filed 5/2/97, Notice 3/12/97—published 5/21/97, effective 6/25/97]

[Filed emergency 8/3/00 after Notice 6/28/00—published 8/23/00, effective 8/3/00]

[Filed 12/1/00, Notice 10/18/00—published 12/27/00, effective 1/31/01][◇]

[Filed 3/14/02, Notice 1/23/02—published 4/3/02, effective 5/8/02]

[Filed 10/10/02, Notice 7/10/02—published 10/30/02, effective 12/4/02]

[Filed 2/2/04, Notice 12/24/03—published 3/3/04, effective 4/7/04]

[Filed 11/5/04, Notice 9/29/04—published 11/24/04, effective 12/29/04]

[Filed 12/14/06, Notice 11/8/06—published 1/17/07, effective 2/21/07]

[Filed emergency 2/8/07 after Notice 1/3/07—published 2/28/07, effective 3/1/07]

[Filed 9/18/08, Notice 8/13/08—published 10/8/08, effective 11/12/08]

[Filed ARC 8707B (Notice ARC 8524B, IAB 2/10/10), IAB 5/5/10, effective 6/9/10]

[Filed ARC 2950C (Notice ARC 2860C, IAB 12/7/16), IAB 2/15/17, effective 3/22/17]

[◇] Two or more ARCs