

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) Licensure exceptions. In accordance with Iowa Code section 148E.3, the following rules govern those persons engaged in the practice of acupuncture not otherwise licensed by the state to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry. A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the board as one that leads to eligibility for licensure is not required to obtain a license.

653—17.3(148E) Definitions.

“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.

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

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

“Committee” means the licensure and examination committee of the board with oversight responsibility for administration of the licensure of acupuncturists.

“Current registrant” means a person who is registered to practice acupuncture in Iowa and who submits an application for licensure within 60 days of receiving an application from the board by certified mail. A current registrant may practice acupuncture in Iowa until the board issues or denies a license.

“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.

“Former registrant” means a person whose acupuncture registration has lapsed or a person who did not apply for licensure within 60 days of receiving an application from the board by certified mail. A former registrant is not in good standing to practice acupuncture in Iowa.

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

“Licensed acupuncturist” or *“licensee”* means a person holding a license to practice acupuncture granted by the board under the provisions of Iowa Code chapter 148E.

“National Commission for the Certification of Acupuncturists” means the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM).

“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.

“*Professional development activity (PDA)*” means any activity for the purpose of continuing a person’s education that is defined and approved by NCCAOM. One PDA point equals one hour of continuing education.

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

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

17.4(1) Eligibility requirements for those who apply after July 1, 2001. 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 National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

e. Successfully complete a course in clean needle technique approved by the NCCAOM.

17.4(2) Eligibility requirements for current registrants. To continue practicing and to be licensed to practice acupuncture by the board, a registrant shall meet all of the following requirements within 60 days of receiving the application by certified mail:

- a. Fulfill all the application requirements, as specified in 17.5(147,148E).
- b. Provide documented evidence of current active status as a diplomate in NCCAOM.
- c. Provide documented evidence of successful completion of a course in clean needle technique approved by NCCAOM.

17.4(3) Eligibility requirements for former registrants who apply before July 1, 2001. To be licensed to practice acupuncture by the board, a former registrant shall meet all of the following requirements by July 1, 2001:

- a. Fulfill all the application requirements, as specified in 17.5(147,148E).
- b. Provide documented evidence of current active status as a diplomate in NCCAOM.
- c. Provide documented evidence of successful completion of a course in clean needle technique approved by NCCAOM.

d. Refrain from practice until a license is issued.

17.4(4) Eligibility requirements for individuals who apply before July 1, 2001, and who have not been registrants. 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. Provide documented evidence of current active status as a diplomate in NCCAOM.
- c. Provide documented evidence of successful completion of an acupuncture degree program approved by the board or an apprenticeship or tutorial program approved by the board.
- d. 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) The board may, at the recommendation of the committee, choose any of the following examinations to test the English proficiency of any applicant: TOEFL, TOEIC, or TSE.

e. Provide documented evidence of successful completion of a course in clean needle technique approved by the NCCAOM.

17.4(5) Eligibility time limits. Registrants have a limited time in which to become licensees.

a. Current registrants shall submit a completed application showing compliance with these eligibility requirements within 60 days of receiving the application by certified mail in order to continue practicing. A current registrant who fails to submit an application for licensure in this period shall cease practice by October 31, 2000.

(1) The board shall determine within 30 days of receiving an application for licensure if the current registrant meets the requirements in 17.4(147,148E) and 17.5(147,148E).

(2) If the current registrant meets the requirements in 17.4(147,148E) and 17.5(147,148E), the board shall issue a license that will expire October 31, 2002, and the registration is no longer valid.

(3) If the current registrant does not meet the requirements in 17.4(147,148E) and 17.5(147,148E), the board shall deny the license and shall invalidate the acupuncture registration. The individual may no longer practice acupuncture in Iowa after November 15, 2000.

(4) Current registrants who do not apply in the 60-day period must discontinue practice until they submit an application and the board approves them for licensure.

b. Former registrants shall be eligible for licensure if they submit a completed application showing compliance with 17.4(147,148E) and 17.5(147,148E) by July 1, 2001.

(1) Former registrants shall not practice acupuncture until the board issues an acupuncture license.

(2) The board shall determine within 30 days of receiving an application for licensure if the former registrant meets the requirements in 17.4(147,148E) and 17.5(147,148E). If so, the board shall issue the license to practice acupuncture.

(3) If the former registrant does not meet the requirements in 17.4(147,148E) and 17.5(147,148E), the board shall deny the license.

c. A registrant who does not qualify for licensure by July 1, 2001, shall meet the new requirements for licensure.

17.4(6) 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.

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

17.5(1) Application required. All registered acupuncturists shall apply for a license within 60 days of receiving an application by certified mail. Failure to apply for licensure in that time frame shall deem the registration invalid and the individual no longer qualified to practice acupuncture in Iowa.

17.5(2) 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; and

b. Pay a nonrefundable initial application fee of \$300.

(1) For current registrants, the fee to become licensed is prorated based on the expiration date of the individual's registration. The board shall notify each registrant of the nonrefundable application fee when the board sends the application by certified mail.

(2) For former registrants, the fee to become licensed is a nonrefundable application fee of \$300.

17.5(3) Contents of the application form. Each applicant, other than current registrants, shall submit the following information on the application form provided by the board:

a. The applicant's name, date and place of birth, and home address, mailing address and principal business address;

b. A photograph of the applicant suitable for positive identification;

c. 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, date of issuance, and an explanation indicating the basis upon which authorization to practice acupuncture was received;

d. 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;

e. Full disclosure of any disciplinary action taken against the applicant by, but not limited to, a regulatory authority, educational institution, or health facility in any jurisdiction of the United States, other nations or territories;

f. The NCCAOM score report verification form submitted directly to the board by the NCCAOM;

g. An official statement from NCCAOM that the applicant holds active status as a diplomate in NCCAOM or, after June 1, 2004, an official statement from NCCAOM that the applicant holds active status as a diplomate in acupuncture or oriental medicine;

h. An official statement showing successful completion of a course in clean needle technique approved by the NCCAOM;

i. 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;

j. A description of the applicant's clinical acupuncture training, work experience and, where applicable, supporting documentation;

k. An official transcript sent directly from the institution of higher education or acupuncture school attended by the applicant and, if necessary, an English translation of the official transcript;

l. 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; and

m. A copy of the disclosure sheet to be used in practice, as described in 17.5(5).

17.5(4) *Contents of the application form for current registrants.* Each current registrant shall submit the following information on the application form provided by the board:

a. The applicant's name, home address, mailing address and principal business address;

b. 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;

c. Full disclosure of any disciplinary action taken against the applicant by, but not limited to, a regulatory authority, educational institution, or health facility in any jurisdiction of the United States, other nations or territories;

d. An official statement from NCCAOM that the registrant holds active status as a diplomate in NCCAOM;

e. An official statement showing successful completion of a course in clean needle technique approved by the NCCAOM;

f. 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;

g. A description of the applicant's work experience in the past five years and, where applicable, supporting documentation; and

h. A copy of the disclosure sheet used in practice, as described in 17.5(5).

17.5(5) *Disclosure sheet.* Pursuant to Iowa Code section 148E.6, applicants shall also provide a copy of the disclosure sheet to be given to each patient that includes the following information:

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 other credentials related to acupuncture awarded by professional acupuncture organizations, the length of time required to obtain degrees or credentials, and experience;

d. A statement indicating any license, certificate, or registration in a health care occupation which was revoked by any local, state, or national health care agency;

e. A statement that the acupuncturist is complying with statutes and with rules adopted by the board, including a statement that only presterilized, disposable needles are used by the acupuncturist;

- f.* A statement that the practice of acupuncture is regulated by the board; and
- 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.

17.5(6) Application cycle. Applications for initial licensure, except for current registrants, shall be open for 120 days from the date the application form is received in the board's office.

a. After the 120 days, applicants shall update credentials and submit a nonrefundable reactivation of application fee of \$100 unless granted an extension in writing by the committee or the board. The period for requesting reactivation of the application is limited to one year from the date the application form is received by the board.

b. Once the application reactivation period is expired, applicants must reapply and submit a new, nonrefundable initial application fee of \$300.

17.5(7) 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(3);

b. Providing accurate, up-to-date, and truthful information on the application form including, but not limited to, that specified under 17.5(3) and 17.5(4) 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(8) Board responsibilities. The board staff shall review new applications within two weeks of submission of all requested materials. If the individual clearly meets all of the requirements, staff may issue the license. If staff has any concern about the application, it shall be referred to committee at its next meeting. If the committee resolves the concern, staff may issue the license. If the committee recommends denial, the application will be referred to the board.

17.5(9) Grounds for denial of application. 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(10) 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.

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) Approval of the disclosure sheet and time limit for revisions. Pursuant to Iowa Code section 148E.6, upon issuing a license, the board shall provide notification to the licensee of the approval or rejection of the disclosure sheet to be provided to patients on initial contact submitted subsequent to 17.5(4) "m."

a. If rejected, the board shall provide the licensee with a written statement explaining the reasons for rejecting the disclosure sheet submitted and indicating the necessary amendments or revisions.

b. Upon receiving the rejection, the licensee shall submit within 14 days a revised mandatory disclosure sheet to the board for its approval.

17.6(3) Distribution and retention of disclosure sheet. The licensee shall distribute the 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 the treatment.

653—17.7(147,148E,272C) Biennial renewal of license required. Pursuant to Iowa Code section 148E.2, a license is renewed every two years on November 1 for a fee of \$300 with documented evidence that the licensee has completed the 30 hours of continuing education required by the board. Beginning June 1, 2004, renewal shall require evidence of the licensee's current active status as a diplomate in acupuncture or oriental medicine from NCCAOM.

17.7(1) Expiration date. Certificates of licensure to practice acupuncture shall expire on October 31 in even years. Those who are granted a license prior to October 31, 2000, shall receive a license that expires October 31, 2002.

17.7(2) Prorated fees. The 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.

a. Pursuant to Iowa Code section 147.10, application for renewal shall be made in writing to the board accompanied by the required fee at least 30 days prior to the expiration date.

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

c. A \$50 penalty shall be assessed for renewal in the grace period, a period up until January 1 when the license lapses if not renewed.

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

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.

653—17.8(147,272C) Reinstatement of a lapsed license.

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

a. Submit a completed application for reinstatement of a license to practice acupuncture that includes:

(1) The applicant's name, home address, mailing address, and principal business address.

(2) 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.

(3) Full disclosure of any disciplinary action taken against the applicant by, but not limited to, a regulatory authority, educational institution, or health facility in any jurisdiction of the United States, other nations or territories.

(4) A practice history for the period of the lapsed license.

b. Pay \$400.

c. Provide evidence of successful completion of 60 PDA points.

d. Provide an official statement from NCCAOM that the applicant holds current active status as a diplomate of NCCAOM. After June 1, 2004, provide an official statement from NCCAOM that the applicant holds active status as a diplomate in acupuncture or oriental medicine.

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 a licensee who fails to renew for a period of three years from the expiration date to meet any or all of the following requirements prior to reinstatement of a lapsed license:

a. Provide a written statement explaining the reasons for failing to renew;

b. 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;

c. Appear before the committee or board for an interview.

653—17.9(272C) Continuing education requirements—course approval. Pursuant to Iowa Code section 272C.2, a person licensed to practice acupuncture shall complete 30 PDA points to qualify for license renewal.

1. A licensee may earn from 1 to 15 extra PDA points in a license period that may be carried over for credit in the next license period. A licensee desiring to obtain credit for carryover hours shall report the carryover credit on the renewal application when the credit was earned.

2. It is the responsibility of each licensee to finance the costs of the licensee's PDA points.

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

17.10(1) 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(2) 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(3) 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(4) Change of residence. In accordance with Iowa Code section 147.9, licensees shall notify the board of changes in residence and place of practice within 14 days of moving.

17.10(5) Delegation of responsibilities prohibited. The licensee shall perform all aspects of acupuncture treatment on a patient. Delegation of responsibility for acupuncture treatment is strictly prohibited.

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.* 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. Knowingly submitting a false report of continuing education or failing to submit a required continuing education report;

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

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

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]

[◇] Two or more ARCs