

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 8. ACUPUNCTURE BOARD OF EXAMINERS

[R08-39]

PREAMBLE

1. Sections Affected

Rulemaking Action

R4-8-101	Amend
R4-8-102	Amend
R4-8-103	Amend
R4-8-104	Amend
R4-8-105	Amend
Table 1	Amend
R4-8-106	Amend
R4-8-107	New Section
Article 2	Amend
R4-8-201	Renumber
R4-8-202	Renumber
R4-8-203	Amend
R4-8-204	Amend
R4-8-205	Renumber
R4-8-205	Amend
R4-8-206	Renumber
R4-8-206	Amend
R4-8-207	Amend
R4-8-208	Amend
Article 3	New Article
R4-8-301	Renumber
R4-8-301	Amend
R4-8-302	Renumber
R4-8-302	Amend
R4-8-303	New Section
R4-8-304	New Section
R4-8-401	Amend
R4-8-402	Amend
R4-8-403	Amend
R4-8-404	Amend
R4-8-405	Amend
R4-8-406	Repeal
R4-8-407	Amend
R4-8-408	Amend
R4-8-409	Amend
R4-8-410	Repeal
R4-8-411	Amend
R4-8-412	Amend
Article 5	Amend
R4-8-501	Amend
R4-8-502	Amend

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R4-8-503	Amend
Article 6	New Article
R4-8-601	New Section
R4-8-602	New Section
R4-8-603	New Section
R4-8-604	New Section
R4-8-605	New Section
R4-8-702	Amend
R4-8-704	Amend
R4-8-706	Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 32-3903(A)(1)

Implementing statute: A.R.S. §§ 32-3901, 32-3903, 32-3921, 32-3922, 32-3924, 32-3925, 32-3926, 32-3927, and 32-3951

3. The effective date for the rules:

April 5, 2008

4. List of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 12 A.A.R. 3755, October 6, 2006

Notice of Recodification: 13 A.A.R. 482, February 16, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 3408, October 12, 2007

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Pete Gonzalez, Executive Director

Address: Acupuncture Board of Examiners
1400 W. Washington St., Suite 230
Phoenix, AZ 85007

Telephone: (602) 364-0145

Fax: (602) 542-3093

E-mail: Pete.gonzalez@azacuboard.az.gov

6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

In response to a five-year-review report approved by the Council on February 7, 2006, the Board is amending its rules to make them more clear, concise, and understandable and consistent with statute and agency practice, and to update materials incorporated by reference.

During the 2007 session, the legislature substituted "Asian" for "Oriental" in all statutes in which "Oriental" was not part of the name of an organization. Under Laws 2007, Ch 102, § 4, the legislature indicated that state agencies were to make a similar change in their administrative rules. Unfortunately, it is not possible simply to substitute "Asian" for "Oriental" in the Board's rules without expanding the scope of a licensee's practice. As a result, the Board substituted "traditional East-Asian" for "Oriental" in all instances in which "Oriental" was not part of the title of an organization or publication.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The rulemaking will have minimal economic impact because it simply amends current rules. Deleting the provision for an exemption from the continuing education requirement is the only substantive change made in the rulemaking. The Board determined that it did not have authority to exempt a licensee from the continuing education requirement.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

In addition to minor, non-substantive changes to the rules, the Board added the requirement that an applicant for a license or certificate or for renewal of a license or certificate complete an Arizona Statement of Citizenship and Alien Status for Public Benefits. This change is necessary to make the rules consistent with A.R.S. § 1-501, which was

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added during the 2007 legislative session. According to the Arizona Attorney General's office, A.R.S. § 1-501 clarifies that Arizona law is consistent with federal law (See 8 U.S.C. 1621) regarding public benefits for certain aliens who are not lawfully present in the U.S. Under federal law, "public benefit" means "... professional license or commercial license provided by an agency of a State or local government...." This change is not substantial because it simply makes the rule consistent with law.

11. A summary of the comments made regarding the rules and the agency response to them:

An oral proceeding was held on November 28, 2007. There were no comments made regarding the rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rule:

"Clean Needle Technique Manual for Acupuncturists," 5th edition, 2004, published by the National Acupuncture Foundation, P.O. Box 137, Chaplin, CT 06235; incorporated at R4-8-107(2).

"Accreditation Handbook," Part One, 2005, published by the Accreditation Commission for Acupuncture and Oriental Medicine, Maryland Trade Center #3, 7501 Greenway Center Drive, Suite 260, Greenbelt, MD 20770, incorporated at R4-8-107(3).

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 8. ACUPUNCTURE BOARD OF EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section

- R4-8-101. Definitions
- R4-8-102. ~~Certification~~ Authentication of Documentation; Translation; Verification
- R4-8-103. ~~Filing~~ Change of Mailing Address, E-mail Address, and or Telephone Number Numbers
- R4-8-104. ~~Annual Board Meetings~~ Meeting
- R4-8-105. Time-frames for Licensure, Certification, and ~~Approvals~~ Approval
- Table 1. Time-frames (in days)
- R4-8-106. ~~Completion of Applications; Nonrefundable Fees~~
- R4-8-107. Materials Incorporated by Reference

ARTICLE 2. ACUPUNCTURE LICENSING; VISITING PROFESSOR CERTIFICATE AND CERTIFICATION PROVISIONS

Section

- ~~R4-8-201.~~ Renumbered
- ~~R4-8-202.~~ Renumbered
- R4-8-203. Application for Acupuncture License
- R4-8-204. Renewal of ~~an Acupuncture Licenses and Certificates~~ License
- ~~R4-8-206.~~ ~~R4-8-205.~~ Reinstatement of ~~an Acupuncture License~~
- ~~R4-8-205.~~ ~~R4-8-206.~~ Continuing Education Requirement
- R4-8-207. ~~Exemption from~~ Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement
- R4-8-208. Application for Visiting Professor Certificate; Extension of Visiting Professor Certificate

ARTICLE 3. ~~RECODIFIED~~ AURICULAR ACUPUNCTURE CERTIFICATION

Section

- ~~R4-8-301.~~ Reeodified
- ~~R4-8-201.~~ ~~R4-8-301.~~ Application for Auricular Acupuncture Certificate
- ~~R4-8-302.~~ Reeodified
- ~~R4-8-202.~~ ~~R4-8-302.~~ Approval of Substance Abuse and Chemical Dependency Programs Requirements for the Practice of Auricular Acupuncture
- R4-8-303. Reeodified Renewal of an Auricular Acupuncture Certificate

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R4-8-304. ~~Recodified~~ Notice of Change in Supervisor

ARTICLE 4. TRAINING PROGRAMS AND CONTINUING EDUCATION

Section

- R4-8-401. Auricular Acupuncture Training Program Approval
- R4-8-402. Clean Needle Technique Course Approval
- R4-8-403. Approval of ~~Program of an~~ Acupuncture; Clinical Training; or Preceptorship Training Program
- R4-8-404. ~~Standards for an Program of Acupuncture Standards~~ Standards or Clinical Training Program
- R4-8-405. Documentation Required for Approval
- R4-8-406. ~~Denial or Revocation of Approval~~ Repealed
- R4-8-407. ~~Acupuncture~~ Program Monitoring; Records; Reporting
- R4-8-408. Approval of Continuing Education ~~Course~~
- R4-8-409. Application for Continuing Education ~~Course~~ Approval
- R4-8-410. ~~Denial or Revocation of Continuing Education Course Approval~~ Repealed
- R4-8-411. Preceptorship Training Standards
- R4-8-412. Approval of Preceptorship Training Program Supervisor

ARTICLE 5. REGULATORY PROVISIONS SUPERVISION; RECORDKEEPING

Section

- R4-8-501. Treatment of Patients by Acupuncture Students; Supervision
- R4-8-502. Recordkeeping
- R4-8-503. Supervision of an Auricular Acupuncturists Acupuncturist

ARTICLE 6. RESERVED COMPLAINTS; HEARING PROCEDURES; DISCIPLINE

Section

- R4-8-601. Making a Complaint
- R4-8-602. Complaint Procedures
- R4-8-603. Hearing Procedures
- R4-8-604. Rehearing or Review of Decision
- R4-8-605. Disciplinary Action

ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES

Section

- R4-8-702. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business or Consumer Impact
- R4-8-704. Oral Proceedings
- R4-8-706. Written Criticism of Rule

ARTICLE 1. GENERAL PROVISIONS

R4-8-101. Definitions

The definitions in A.R.S. § 32-3901 apply to this Chapter. Additionally, in ~~For purposes of this Chapter:~~

1. "ACAOM" means the Accreditation Commission for Acupuncture and Oriental Medicine.
"Acupuncture program" means a Board-approved training designed to prepare a student for the NCCAOM examination and licensure.
"Acupuncture student" means an individual enrolled in an acupuncture, auricular acupuncture, or preceptorship training program.
2. "Acupuncturist" means ~~a person~~ an individual licensed or certified by the Board to practice acupuncture in this state.
3. "Administrative completeness review" means the Board's process for determining ~~that whether a person~~ an applicant has provided all of the information and documents required by this Chapter for an a complete application packet.
4. "Applicant" means ~~a person requesting a certificate or license from~~ an individual who applies to the Board for an initial or renewal license or certificate.
5. "Application packet" means the fees, forms, documents, and additional information the Board requires to be submitted by an applicant or on an applicant's behalf.
"Approved continuing education" means a planned educational experience that the Board determines meets the criteria in R4-8-408.
"Auricular acupuncture" means a therapy in which the five-needle protocol is used to treat alcoholism, substance abuse, or chemical dependency.
6. "Clean needle technique" means a manner of needle sterilization and use that avoids the spread of disease and infection, protects the public and the patient, and complies with state and federal law.

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- 7. “Clinical hours” means actual clock hours that a student spends providing patient care under the supervision of an individual licensed under R4-8-203 or R4-8-208.
- 8. “Course” means a systematic learning experience, at least 1 hour in length, that assists a participant to acquire knowledge, skills, and information relevant to the practice of acupuncture.
- 9. “Day” means calendar day.
“Five-needle protocol” means a therapy, developed by NADA to treat alcoholism, substance abuse, or chemical dependency, which involves inserting five needles into specific points on the outer ear.
- 10. “Hour” means at least 50 minutes of course participation.
“Letter of concern” means an alternative sanction that informs a licensee or certificate holder that, while the evidence does not warrant disciplinary action, the Board believes the licensee or certificate holder should change certain practices and failure to change the practices may result in disciplinary action. A letter of concern is a public document that may be used in future disciplinary proceedings.
- 11. “NADA” means the National Acupuncture Detoxification Association.
“NCCAOM” means the National Commission for the Certification of Acupuncture and Oriental Medicine.
“Preceptorship training” means a program in which a student studies under a Board-approved supervisor who assumes responsibility for the didactic and clinical training of the student.
“Respondent” means an individual accused of violating A.R.S. Title 32, Chapter 39 or this Chapter.
- 12. “Successful completion of a clean needle technique course” means a course participant has:
 - a. Attended the course, and
 - b. Received a passing score on an examination or other confirmation from the course provider that evidences that the participant mastered the course content.
- 13. “Supervisor” means an acupuncturist licensed by the Board who is responsible for the oversight and direction of an acupuncture student or a certificate holder.
- 14. “Clinical hours” means actual clock hours that a student spends providing patient care under a Board-approved supervisor.
- 15. “Preceptorship training” means a program in which a student studies under a Board-approved supervisor who assumes responsibility for the didactic and clinical training of the student.
- 16. “Program of acupuncture” means a Board-approved method of training designed to prepare a student for the NCCAOM exam and licensure.
- 17. “Acupuncture student” means a person enrolled in a program of acupuncture or a preceptorship training program.

R4-8-102. Certification Authentication of Documentation; Translation; Verification

- A. An applicant shall ensure that a document submitted to the Board from by or on behalf of the applicant or any program has an official or government seal or written verification authenticating the document. The Board in its discretion may waive this requirement if the Board determines that an applicant cannot obtain the seal or verification through the exercise of due diligence, the Board shall waive this requirement.
- B. An applicant shall ensure that an official copies copy of diplomas, transcripts, licenses or certificates, examination scores, and any diploma, transcript, license, certificate, examination score, or other documents document required for application are is forwarded directly to the Board by the issuing entity.
- C. An applicant shall ensure that a document submitted in a language other than English is accompanied by an original English translation, performed by a qualified translator who is not the applicant. The applicant shall ensure that the translation must be is accompanied by an Affidavit of Accuracy in which the translator who performed or verified the translation affirms, under oath and penalty of perjury, that the entire document has been translated, that nothing has been omitted or added, and that the translation is true and correct. An The Board shall return an original translation will be returned to the applicant only if the applicant provides a photocopy of the entire translation, including the Affidavit of Accuracy, is provided. The Board shall not accept a translation by the applicant.
- D. The following persons are regarded as qualified translators:
 - 1. An officer or employee of an official translation bureau or governmental agency;
 - 2. A professor or instructor who teaches the translated language in at an accredited college or university in the United States. The professor or instructor shall ensure that the Affidavit of Accuracy shall include includes the name of the course taught, be is on the official letterhead of the school college or university, and be is notarized;
 - 3. An American consul in the country where the translated document was issued. If a private translator translated the document, the American consul shall verify both the contents of the translation as required under subsection (C) and the identity of the translator; and
 - 4. A consul general or diplomatic representative accredited in the United States, or other representative of a foreign government agency. The If a private translator translated the document, the representative shall verify the contents of a translation performed by a private individual as required under subsection (C) and the identity of the translator.
- E. All written verifications of statements or documents submitted by or on behalf of an applicant shall be under oath and made under penalty of perjury.

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R4-8-103. Filing Change of Mailing Address, E-mail Address, and or Telephone Number Numbers

~~A person holding a license or certificate or any other authority issued under this Chapter shall file the person's current mailing address, residential telephone number, and business telephone number with the Board, and The Board shall communicate with a licensee, certificate holder, or a person holding an approval from the Board using the contact information provided to the Board. To ensure timely communication from the Board, a licensee, certificate holder, or person holding an approval from the Board shall notify the Board, in writing, within 20 30 days of any change of mailing address (giving both the old and the new address), e-mail address, or residential, or business, or mobile telephone numbers number.~~

R4-8-104. Annual Board Meetings Meeting

- A. The Board shall conduct its annual meeting in January.
- B. The Board shall provide public notice of the date, time, and place of its annual meeting at least 20 days before the meeting.

R4-8-105. Time-frames for Licensure, Certification, and Approvals Approval

- A. ~~The overall time frame described in A.R.S. § 41-1072(2) for each type of license, certificate, and approval granted by the Board is~~ For the purpose of A.R.S. § 41-1073, the Board establishes the time-frames listed in Table 1. An applicant or a person requesting an approval from the Board and the Executive Director of the Board may agree in writing to extend the substantive review and overall time-frame time-frames. ~~The overall time frame and the substantive time frame may not be extended by no more than 25% of the overall time-frame.~~
- B. The administrative completeness review time-frame begins: when the Board receives an application packet or a request for approval. During the administrative completeness review time-frame, the Board shall notify the applicant or person requesting approval that the application packet or request for approval is either complete or incomplete. If the application packet or request for approval is incomplete, the Board shall specify in the notice what information is missing.
 - 1. ~~For approval or denial of an application for licensure or other certification, when the Board receives an application packet; and~~
 - 2. ~~For approval or denial of an application for approval of a training program, clean needle course, or continuing education course, when the Board receives a request for approval.~~
- C. An applicant or person requesting approval whose application packet or request for approval is incomplete, shall submit the missing information to the Board within the time to complete listed in Table 1. Both the administrative completeness review and overall time-frames are suspended from the date of the Board's notice under subsection (B) until the Board receives all of the missing information.
- D. Upon receipt of all missing information, the Board shall notify the applicant or person requesting approval that the application packet or request for approval is complete. The Board shall not send a separate notice of completeness if the Board grants or denies a license, certificate, or approval within the administrative completeness time-frame listed in Table 1.
- E. The substantive review time-frame listed in Table 1 begins on the date of the Board's notice of administrative completeness.
- F. If the Board determines during the substantive review that additional information is needed, the Board shall send the applicant or person requesting approval a comprehensive written request for additional information.
- G. An applicant or person requesting approval who receives a request under subsection (F), shall submit the additional information to the Board within the time for response listed in Table 1. Both the substantive review and overall time-frames are suspended from the date of the Board's request until the Board receives the additional information.
- H. An applicant or person requesting approval may receive a 30-day extension of the time provided under subsection (C) or (G) by providing written notice to the Board before the time expires. If an applicant or person requesting approval fails to submit to the Board the missing or additional information within the time provided under Table 1 or the time as extended, the Board shall close the applicant's or person's file. To receive further consideration, an applicant or person requesting approval whose file is closed shall re-apply.
- I. Within the overall time-frame listed in Table 1, the Board shall:
 - 1. Grant a license, certificate, or approval if the Board determines that the applicant or person requesting approval meets all criteria required by statute and this Chapter; or
 - 2. Deny a license, certificate, or approval if the Board determines that the applicant or person requesting approval does not meet all criteria required by statute and this Chapter.
- J. If the Board denies a license, certificate, or approval, the Board shall send the applicant or person requesting approval a written notice explaining:
 - 1. The reason for denial, with citations to supporting statutes or rules;
 - 2. The applicant's or person's right to appeal the denial by filing an appeal under A.R.S. Title 41, Chapter 6, Article 10;
 - 3. The time for appealing the denial; and
 - 4. The applicant's or person's right to request an informal settlement conference.
- ~~K.~~ If a time-frame's last day falls on a Saturday, Sunday, or official state holiday, the next business day is the time-frame's last day.

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Table 1. Time-frames (in days)

Type of Applicant	Type of Approval	Statutory Authority	Overall Time frame	Administrative Completeness Time-frame	Substantive-Review Time-frame
Acupuncture-License	Approval for Licensure	A.R.S. § 32-3924	60	20	40
Visiting Professor-Certificate	Approval for Certification	A.R.S. § 32-3926	60	20	40
Auricular Acupuncture-Certificate	Approval for Certification	A.R.S. § 32-3922	60	20	40
Auricular Acupuncture Training-Program	Approval of training program	A.R.S. § 32-3922	60	20	40
Program of Acupuncture	Approval of training program	A.R.S. § 32-3924(2)	60	20	40
Clinical Training-Program	Approval of training program	A.R.S. § 32-3924(2)	60	20	40
Clean Needle-Technique-Course	Approval of course	A.R.S. § 32-3924	60	20	40
Continuing education-program	Approval for Continuing-Education	A.R.S. § 32-3925	90	40	50
Exemption from-continuing education	Approval of exemption	A.R.S. § 32-3925	30	10	20
License or certificate renewal	Approval of renewal	A.R.S. § 32-3925	60	20	40
License or certificate reinstatement	Approval of reinstatement of license	A.R.S. § 32-3925(D)	60	20	40
Preceptorship-training program	Preceptorship training program	A.R.S. § 32-3903(6)	60	20	40

<u>Type of license, certificate, or approval</u>	<u>Authority</u>	<u>Administrative Completeness Time-frame</u>	<u>Time to Complete</u>	<u>Substantive Review Time-frame</u>	<u>Time to Respond</u>	<u>Overall Time-frame</u>
<u>Acupuncture License</u>	<u>A.R.S. § 32-3924; R4-8-203</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>
<u>Visiting Professor Certificate</u>	<u>A.R.S. § 32-3926; R4-8-208</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>
<u>Auricular Acupuncture Certificate</u>	<u>A.R.S. § 32-3922; R4-8-301</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>
<u>Auricular Acupuncture Training Program</u>	<u>A.R.S. § 32-3922; R4-8-401</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>
<u>Acupuncture Program</u>	<u>A.R.S. § 32-3924(2); R4-8-403</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>

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<u>Clinical Training Program</u>	<u>A.R.S. § 32-3924(2); R4-8-403</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>
<u>Clean Needle Technique Course</u>	<u>A.R.S. § 32-3924; R4-8-402</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>
<u>Preceptorship Training Program</u>	<u>A.R.S. § 32-3903; R4-8-411</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>
<u>Preceptorship Training Program Supervisor</u>	<u>A.R.S. § 32-3903; R4-8-412</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>
<u>Continuing Education Approval</u>	<u>A.R.S. § 32-3925; R4-8-409</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>
<u>Renewal of License or Certificate</u>	<u>A.R.S. § 32-3925; R4-8-204 or R4-8-303</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>
<u>Extension of Visiting Professor Certificate</u>	<u>A.R.S. § 32-3926(C); R4-8-208</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>
<u>Reinstatement of License</u>	<u>A.R.S. § 32-3925(D); R4-8-205</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>30</u>	<u>60</u>

R4-8-106. Completion of Applications; Nonrefundable Fees

A. An application is administratively complete when the Board receives all documents required for licensure or certification.

A. Under the authority provided at A.R.S. § 32-3927, the Board establishes and shall collect the following fees:

1. Application for an acupuncture license: \$150.
2. Issuance of an initial acupuncture license: \$275.;
3. Renewal of an acupuncture license: \$275.
4. Additional fee for late renewal of an acupuncture license: \$100.
5. Application for an auricular acupuncture certificate: \$75.
6. Issuance of an initial auricular acupuncture certificate: \$75.
7. Renewal of an auricular acupuncture certificate: \$75.
8. Visiting professor certificate: \$600.
9. Extension of a visiting professor certificate: \$600, and
10. Duplicate license or certificate: \$50.

B. ~~Application~~ Except as provided in subsections (B)(1) through (B)(3) or as required under A.R.S. § 41-1077, all fees are nonrefundable ~~except as required by A.R.S. § 41-1077.~~ The Board shall refund the fee paid under subsection (A)(2) or (A)(6) if:

1. The Board denies a license or certificate to an applicant.
2. The Board closes the file of an applicant under R4-8-105, or
3. An applicant withdraws an application.

R4-8-107. Materials Incorporated by Reference

A. The Board incorporates the following material by reference:

1. “NADA Registered Trainer Resource Manual,” 1999, published by the National Acupuncture Detoxification Association, 3220 N Street NW #275, Washington, D.C. 20007;
2. “Clean Needle Technique Manual for Acupuncturists,” 5th edition, 2004, published by the National Acupuncture Foundation, P.O. Box 137, Chaplin, CT 06235; and
3. “Accreditation Handbook,” Part One, 2005, published by the Accreditation Commission for Acupuncture and Oriental Medicine, Maryland Trade Center #3, 7501 Greenway Center Drive, Suite 260, Greenbelt, MD 20770.

B. The materials incorporated by reference under subsection (A) contain no later editions or amendments and are on file with the Board.

ARTICLE 2. ACUPUNCTURE LICENSING; VISITING PROFESSOR CERTIFICATE AND CERTIFICATION PROVISIONS

R4-8-201. Renumbered

R4-8-202. Renumbered

R4-8-203. Application for Acupuncture License

A. To be licensed to practice acupuncture, an applicant shall submit an application packet to the Board that includes:

1. An application, on a form provided by the Board, that provides the following information about the applicant:

- a. Name;
- b. Other names by which the applicant has been known;
- c. ~~date~~ Date of birth; and;
- d. Social Security number;
- ~~b-e.~~ Home, and business, and e-mail addresses; and
- f. Home, business, and mobile telephone numbers;
- ~~e-g.~~ Whether A statement of whether the applicant has ever been permitted by law to practice acupuncture in another state, territory, or district of the United States, or ~~any other~~ another country or subdivision of ~~any~~ another country, and if so;
 - i. a A list of the jurisdictions in which the applicant has been permitted by law to practice acupuncture;
 - ii. license numbers; The number of each license;
 - iii. issuance dates; The date each license was issued;
 - iv. expiration dates; The date each license expired or expires;
 - v. license limitations; Limitations, if any, for each license;
 - vi. ~~current~~ Current status; of each license; and
 - vii. ~~whether the licenses were~~ Whether each license was granted by endorsement, examination, or another means;
- ~~d-h.~~ Whether A statement of whether the applicant is certified by the NCCAOM, and if so, whether the certification is active and current, and the dates of issuance and expiration;
- ~~e-i.~~ Whether A statement of whether the applicant is certified by another certifying body, and if so, the name and address of the certifying body, and the dates of issuance and expiration of the certification;
- ~~f-j.~~ Whether A statement of whether the applicant has passed a certifying or licensing examination in acupuncture, and if so, the name and address of the organization administering the examination;
- ~~g-k.~~ Whether A statement of whether the applicant has completed an acupuncture program accredited within the United States; or ~~any other~~ another country or subdivision of ~~any~~ another country, and if so, the date of ~~completion of the program~~ completion;
- ~~h.~~ Whether the applicant has completed a minimum of 1850 hours of training in acupuncture that includes at least 800 hours of clinical training, and if so, the names and addresses of the schools attended, dates of attendance, and the diploma or degree obtained;
- ~~i-l.~~ Whether A statement of whether the applicant has ever had a licensing authority of ~~any other~~ another state, district, or territory of the United States, or ~~any other~~ another country or subdivision of ~~any~~ another country, deny the applicant a license or certificate to practice acupuncture, ~~or and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;~~
- ~~m.~~ A statement of whether the applicant has ever had a licensing authority of another state, district, or territory of the United States, or another country or subdivision of another country, revoke, suspend, limit, restrict, or take any other action regarding the applicant's license or certificate to practice acupuncture, and if so, the name of the jurisdiction taking the action, the action taken, date of the action, and an explanation of the circumstances;
- ~~j-n.~~ Whether A statement of whether the applicant has ever been convicted of a crime, including driving under the influence of drugs or alcohol, other than a minor traffic offense, and if so, ~~an explanation~~ the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
- ~~k-o.~~ Whether A statement of whether the applicant has ever had a claim for malpractice or a lawsuit filed against the applicant alleging professional malpractice or negligence in the practice of acupuncture, and if so, ~~an explanation~~ the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;
- ~~l-p.~~ Whether A statement of whether the applicant has any condition that may impair the applicant's ability to practice acupuncture safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
- ~~m-q.~~ Whether A statement of whether the applicant has ever resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances; and
- ~~r.~~ ~~or~~ A statement of whether the applicant has ever had a health-care facility terminate, restrict, or take any other action regarding the applicant's employment, professional training, or privileges, and if so, the name of the

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- health-care facility, the date of the action, and an explanation of the circumstances; and
- ~~n.~~ A signed verification that the facts in the application are accurate, true, and complete;
 2. An official record or document that relates to the applicant's explanation of an item under subsections (1)(l) through (1)(r);
 - ~~2-3. One Documentation of one of the following:~~
 - ~~a. Transcript that shows evidence of graduation from or completed training from an approved acupuncture program and includes a list of the courses studied and clinical training received, grades or scores for each course and clinical training, and the name and address of the approved program;~~
 - ~~b. Documentation of certification Certification from the NCCAOM; or its successor; or another certifying;~~
 - ~~b. Certification by another certifying body recognized by the Board; or~~
 - ~~c. Certification as a result of passing a licensing or certifying examination in acupuncture; or~~
 - ~~e.d. Documentation that the applicant has been permitted Authorization by law to practice acupuncture in another state, district, or territory of the United States, or another country or subdivision of a another country with licens- ing standards substantially similar to those in this Chapter and that the applicant's license has not been revoked;~~
 - ~~3-4. Documentation of successfully completing a Board-approved clean needle technique course, approved by the Board~~ A copy of the certificate of completion showing the name of the course and the date on and location at which the course was completed is acceptable documentation;
 - ~~4-5. A photograph of the applicant no larger than 2 x 2 inches taken during the preceding 12 months~~ A 2" X 2" photo- graph, taken within the last year, that shows the front of the applicant's face and that the applicant signs on the back or the white frame around the photograph;
 6. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board; and
 - ~~5-7. The application and initial licensing fees prescribed by the Board under R4-8-106(A)(1) and (A)(2). If the Board denies licensure, the initial licensing fee shall be refunded.~~
- B.** In addition to the materials required under subsection (A), an applicant shall provide evidence that the applicant com- pleted at least 1,850 hours of training in acupuncture, including at least 800 clinical hours, by having submitted directly to the Board:
1. An official transcript from each school at which the applicant attended a Board-approved acupuncture program show- ing:
 - a. The name and address of the school.
 - b. The dates on which the applicant attended the school.
 - c. The courses and clinical training completed by the applicant.
 - d. The number of hours in each course or clinical training.
 - e. The grade or score obtained by the applicant in each course or clinical training, and
 - f. Whether the applicant received a diploma or degree from the school, and
 2. An official record from any Board-approved preceptorship training program attended by the applicant showing:
 - a. The name and address of the preceptorship training program.
 - b. The name of the Board-approved supervising preceptor.
 - c. The dates on which the applicant attended the preceptorship training program.
 - d. The subject matter of all didactic and clinical training.
 - e. The number of hours spent on each subject.
 - f. The grade or score obtained by the applicant in each subject, and
 - g. Whether the applicant received a certificate of completion from the preceptorship training program.
- C.** In addition to complying with subsections (A) and (B), an applicant shall sign, date, and have notarized an affidavit that indicates all information provided in the application packet, including any accompanying documents submitted by or on behalf of the applicant, are true, complete, and correct.
- R4-8-204. Renewal of an Acupuncture Licenses and Certificates License**
- ~~A. All licenses and certificates expire~~ An acupuncture license expires 12 months from after the date issued.
 - ~~B. A license or certificate holder shall submit renewal fees with a renewal application form, provided and mailed to the license or certificate holder by the Board, that furnishes up to date information concerning current practice status, loca- tion of practice, correct home and business mailing addresses, and telephone numbers on or before the date the license or certificate expires.~~
 - ~~C. To renew a license, a license holder shall submit an affidavit of continuing education attendance that meets the require- ments of R4-8-205.~~
 - ~~D. A license or certificate holder who fails to renew on or before the date the license or certificate expires shall immediately cease and desist from engaging further in any practice under these rules and A.R.S. Title 32, Chapter 39 until the license or certificate is renewed.~~
 - B.** The Board shall provide a licensee with 60-days notice of the need to renew. It is the responsibility of the licensee to renew timely. Failure to receive notice of the need to renew does not excuse failure to renew timely.

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- C. If a licensee fails to submit a renewal application packet as described in subsection (D) on or before the expiration date, the licensee shall cease the practice of acupuncture.
- D. To renew an acupuncture license, a licensee shall submit to the Board:
1. A renewal application that provides the following information about the licensee:
 - a. Name;
 - b. License number;
 - c. Business name;
 - d. Home, business, and e-mail addresses;
 - e. Home, business, and mobile telephone numbers;
 - f. A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country denied the licensee a license or certificate to practice acupuncture and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;
 - g. A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country revoked, suspended, limited, restricted, or took other action regarding the license of the licensee and if so, the name of the jurisdiction taking action against the license, the action taken, date of the action, and an explanation of the circumstances;
 - h. A statement of whether during the last 12 months the licensee has been convicted of a crime, including driving under the influence of drugs or alcohol, other than a minor traffic offense, and if so, the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
 - i. A statement of whether during the last 12 months a claim for malpractice or a lawsuit was filed against the licensee alleging professional malpractice or negligence in the practice of acupuncture, and if so, the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;
 - j. A statement of whether during the last 12 months the licensee has any condition that may impair the licensee's ability to practice acupuncture safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
 - k. A statement of whether during the last 12 months the licensee resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances; and
 - l. A statement of whether during the last 12 months the licensee had a health-care facility terminate, restrict, or take any other action regarding the licensee's employment, professional training, or privileges, and if so, the name of the health-care facility, the date of the action, and an explanation of the circumstances;
 2. An affirmation that the licensee completed the continuing education required under R4-8-206;
 3. An affirmation that the licensee is in compliance with the requirements at A.R.S. § 32-3211;
 4. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board;
 5. The renewal fee required under R4-8-106(A)(3); and
 6. The licensee's dated signature affirming that the information provided is accurate, true, and complete.

R4-8-206: R4-8-205. Reinstatement of an Acupuncture License

- A. To reinstate an expired An individual whose acupuncture license, the former license holder shall submit the required renewal application, renewal fee, any applicable late fees, and affidavit of continuing education attendance within 12 months from the date of expiration. expires because of failure to renew timely under R4-8-204(D) may apply to the Board for reinstatement of the acupuncture license by submitting, within 60 days after expiration of the license:
1. The application packet described under R4-8-204(D);
 2. A sworn affidavit that the individual has not practiced acupuncture since the license expired; and
 3. The fee prescribed under R4-8-106(A)(4) for late renewal of an acupuncture license.
- B. The Board shall not reinstate an acupuncture license that expires more than 60 days before the former licensee complies with subsection (A). If a an acupuncture license is expired for more than 12 months 60 days, the former licensee holder licensee may reapply apply for licensure only by complying with this Article R4-8-203.

R4-8-205: R4-8-206. Continuing Education Requirement

- A. A licensee holder licensee shall complete a minimum of at least 15 hours of Board-approved approved continuing education per year.
- B. With an application for license renewal, an acupuncturist shall submit a signed statement under penalty of perjury that indicates whether the acupuncturist has complied with the continuing education requirement. The Board shall award hours in an approved continuing education as follows:
1. Seminar or workshop: One hour of continuing education for each contact hour.
 2. Course at an accredited educational institution: 15 hours of continuing education for each semester hour.

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3. Self-study, online, or correspondence course: Hours of continuing education determined by the course provider.
 4. Teaching an approved continuing education: One hour of continuing education for each hour taught.
 5. Having an article on the practice of acupuncture or traditional East-Asian medicine published in a peer-reviewed professional journal or in a text book: 15 hours of continuing education.
 6. Attending a Board meeting: One hour for attending one meeting during a year, and
 7. Having a text book published relating to the practice of acupuncture or traditional East-Asian medicine: 15 hours of continuing education.
- C. ~~The Board, at its discretion, may audit a random sample of acupuncturists who report compliance with the continuing education requirement. shall limit the number of hours of approved continuing education awarded as follows:~~
1. No more than 30 percent of the required hours may be obtained from teaching an approved continuing education. Hours may be obtained from teaching a particular approved continuing education only once during each year. No hours may be obtained from participating as a member of a panel at an approved continuing education; and
 2. Hours that exceed the maximum required during a year may not be carried over to a subsequent year.
- ~~D. An acupuncturist selected for audit shall submit documentation or records of continuing education course work completed.~~
- D. A licensee shall obtain a certificate or other evidence of attendance from the provider of each approved continuing education attended that includes the following:
1. Name of the licensee;
 2. License number of the licensee;
 3. Name of the approved continuing education;
 4. Name of the continuing education provider;
 5. Name of the entity that approved the continuing education;
 6. Date, time, and location of the approved continuing education; and
 7. Number of hours of approved continuing education.
- ~~E. A licensee shall maintain the evidence of attendance described in subsection (D) for two years and make the evidence available to the Board under R4-8-207 and as otherwise required under this Chapter.~~
- ~~F. An acupuncturist shall retain for a minimum of 2 years records of all continuing education courses or programs completed which indicate the provider's name, title of the course or program, date and location of the course or program, and number of continuing education credits awarded.~~
- ~~F. Instructors of approved continuing education courses may receive 1 hour of continuing education credit for each classroom hour taught, up to a maximum of 2 hours of continuing education credit per year. Participation as a member of a panel presentation for an approved course does not entitle the participant to earn continuing education credit as an instructor.~~
- ~~G. An acupuncturist may use up to 4 hours of continuing education in acupuncture practice management or medical ethics per year to meet the continuing education requirement.~~
- ~~H. A licensed acupuncturist may receive 10 hours of continuing education for each Article written on the practice of acupuncture or oriental medicine that is published in a peer-reviewed professional journal during the year for which the hours apply.~~

R4-8-207. Exemption from Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement

- ~~A. A licensed acupuncturist may submit to the Board a written request to be exempt from the annual continuing education requirement for any of the following reasons:~~
1. ~~Catastrophic illness or other serious disability; or~~
 2. ~~Military service outside the United States longer than 6 months in duration.~~
- ~~B. Exemption requests shall be submitted at least 30 days before the expiration of the license.~~
- ~~C. If granted by the Board, an exemption is for the 1 renewal period only. An exemption may be applied for annually, if necessary.~~
- ~~D. A denial of exemption may be appealed in accordance with A.R.S. Title 41, Chapter 6, Article 10.~~

When notice of the need to renew a license is provided, the Board shall also provide notice of an audit of continuing education records to a random sample of licensees. A licensee subject to a continuing education audit shall submit the documentation required under R4-8-206(D) at the same time that the licensee submits the renewal application packet required under R4-8-204(D). If a licensee fails to submit the required documentation with the renewal application packet before the date of expiration, the license expires.

R4-8-208. Application for Visiting Professor Certificate; Extension of Visiting Professor Certificate

- ~~A. To be approved by the Board obtain a visiting professor certificate, an applicant for a visiting professor certificate shall submit to the Board:~~
1. ~~An The application on a form provided by the Board that includes the information required in R4-8-201(1) under R4-8-203(A) and a signed verification that the facts in the application are information provided is accurate, true, and~~

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- complete;
- 2. The fee required ~~fees under~~ R4-8-106(A)(8);
- 3. ~~Written documentation~~ Documentation of at least ~~5~~ five years of experience in the practice of acupuncture; ~~and~~
- 4. Evidence of skill and training in the subject that the applicant will be teaching, including ~~1~~ one of the following:
 - a. ~~Written documentation~~ Documentation from a college or university of experience, education, or other training in the subject the applicant will be teaching;
 - b. ~~Written documentation~~ Documentation of experience in teaching the same or similar subject matter content within the ~~2~~ two years ~~preceeding before~~ the application; or
 - c. ~~Written documentation~~ Documentation of ~~1 year's~~ one year of experience within the last ~~2~~ two years in the specialized area in which the applicant is teaching; ~~and~~
- 5. A detailed plan outlining the duties of the visiting professor.
- ~~B. The Board shall issue a visiting professor certificate to an applicant who complies with the requirements of this Section. An applicant who is denied a visiting professor certificate may request a hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10.~~
- ~~B. A visiting professor certificate is valid for one year from the date issued. To extend a visiting professor certificate for another year, the certificate holder shall, at least 30 days before the certificate expires, submit to the Board an application for extension. An application for extension includes:~~
 - ~~1. The renewal application form described in R4-8-204(D)(1) including a signed verification that the information provided is accurate, true, and complete;~~
 - ~~2. A letter on official letterhead from an official of the school of acupuncture at which the visiting professor will be teaching requesting that the extension be granted; and~~
 - ~~3. The fee required under R4-8-106(A)(9).~~
- ~~C. The Board shall not extend a visiting professor certificate more than twice.~~

ARTICLE 3. ~~RECODIFIED~~ AURICULAR ACUPUNCTURE CERTIFICATION

~~R4-8-301.~~ Recodified

~~R4-8-201.~~ R4-8-301. Application for Auricular Acupuncture Certificate

To be certified as an auricular acupuncturist to provide auricular acupuncture services in a Board-approved alcoholism, substance abuse, ~~and~~ or chemical dependency ~~programs~~ program, an applicant shall submit an application packet to the Board that includes:

- 1. An application, on a form provided by the Board, that provides the following information about the applicant:
 - a. ~~Name;~~
 - b. Other names by which the applicant has been known;
 - c. ~~date~~ Date of birth, and;
 - d. Social Security number;
 - ~~b.e. Home, and business, and e-mail addresses and telephone numbers;~~
 - f. Home, business, and mobile telephone numbers;
 - e-g. ~~Whether~~ A statement of whether the applicant has ever been permitted by law to practice auricular acupuncture in another state, territory, or district of the United States, or ~~any other~~ another country or subdivision of ~~any other~~ another country, and if so;
 - i. ~~a~~ A list of the jurisdictions in which the applicant has been permitted by law to practice auricular acupuncture;
 - ii. ~~license numbers;~~ The number of each license or certificate;
 - iii. ~~issuance dates;~~ The date each license or certificate was issued;
 - iv. ~~expiration dates;~~ The date each license or certificate expired or expires;
 - v. ~~license limitations;~~ Limitations, if any, for each license or certificate;
 - vi. ~~current~~ Current status; of each license or certificate; and
 - vii. ~~whether the licenses were~~ Whether each license or certificate was granted by endorsement, examination, or another means;
 - ~~d-h. Whether~~ A statement of whether the applicant has ever had a licensing authority of ~~any other~~ another state, district, or territory of the United States, or ~~any other~~ another country or subdivision of ~~any other~~ another country, deny the applicant a license or certificate to practice auricular acupuncture, ~~or~~ and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;
 - i. A statement of whether the applicant has ever had a licensing authority of another state, district, or territory of the United States, or another country or subdivision of another country, revoke, suspend, limit, restrict, or take any other action regarding the applicant's license or certificate to practice auricular acupuncture, and if so, the name of the jurisdiction taking the action, the action taken, date of the action, and an explanation of the circumstances;
 - e-j. ~~Whether~~ A statement of whether the applicant has ever been convicted of a crime, including driving under the

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- influence of drugs or alcohol, other than a minor traffic offense, and if so, ~~an explanation~~ the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
- ~~f.k.~~ Whether A statement of whether the applicant has ever had a claim for malpractice or a lawsuit filed against the applicant alleging professional malpractice or negligence in the practice of auricular acupuncture, and if so, an explanation the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;
- ~~g.l.~~ Whether A statement of whether the applicant has any condition that may impair the applicant's ability to practice auricular acupuncture safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
- ~~h.m.~~ Whether A statement of whether the applicant has ever resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances; and
- ~~n.~~ or A statement of whether the applicant has ever had a health-care facility terminate, restrict, or take any other action regarding the applicant's employment, professional training, or privileges, and if so, the name of the health-care facility, the date of the action, and an explanation of the circumstances; and
- ~~i.~~ A signed verification that the facts in the application are accurate, true, and complete;
2. An official record or document that relates to the applicant's explanation of an item under subsections (1)(h) through (1)(n);
- ~~2-3.~~ The application and initial licensing certification fees prescribed by the Board. If the Board denies licensure, the initial licensing fee shall be refunded; and under R4-8-106(A)(5) and (A)(6);
- ~~3-4.~~ Documentation of successfully completing a Board-approved:
- a. ~~training~~ Training program in auricular acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency, and A copy of the certificate of completion showing the name, date, and location of the course is acceptable documentation; and
- b. ~~a Board-approved clean~~ Clean needle technique course. A copy of the certificate of completion showing the name, date, and location of the course is acceptable documentation;
5. The name, license number, and telephone number of the Arizona licensed acupuncturist who will supervise the applicant if the applicant is certified;
6. A 2" X 2" photograph, taken within the last year, that shows the front of the applicant's face and that the applicant signs on the back or the white frame around the photograph;
7. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board; and
8. The applicant's dated and notarized signature affirming that the information provided in the application, including any accompanying documents submitted by or on behalf of the applicant, are true and complete.

R4-8-302. Recodified

R4-8-202. ~~R4-8-302. Approval of Substance Abuse and Chemical Dependency Programs~~ Requirements for the Practice of Auricular Acupuncture

- A. ~~An A holder of an auricular acupuncture certificate holder shall provide auricular acupuncture services only in an alcoholism, substance abuse, and or chemical dependency programs program approved by the Board; or the State of Arizona, or the state or federal government, and only under the supervision of a person licensed to practice acupuncture in Arizona.~~
- B.** A holder of an auricular acupuncture certificate shall provide auricular acupuncture services only under the supervision of an individual licensed under A.R.S. § 32-3924 and R4-8-203.
- ~~B.C.~~ For purposes of this Section, the The Board approves an alcoholism, substance abuse, and or chemical dependency program that provides services and is licensed by the Arizona Department of Health Services as a behavioral health agency under A.R.S. Title 36, Chapter 4.

R4-8-303. Recodified Renewal of an Auricular Acupuncture Certificate

- A.** An auricular acupuncture certificate expires 12 months after the date issued.
- B.** The Board shall provide a certificate holder with 60-days notice of the need to renew. It is the responsibility of the certificate holder to renew timely. Failure to receive notice of the need to renew does not excuse failure to renew timely.
- C.** If a certificate holder fails to submit a renewal application packet as described in subsection (D) on or before the expiration date, the certificate holder shall cease the practice of auricular acupuncture.
- D.** To renew an auricular acupuncture certificate, a certificate holder shall submit to the Board:
1. A renewal application that provides the following information listed about the certificate holder:
- a. Name;
- b. Certificate number;
- c. Renewal date;
- d. The name, address, and telephone number of the alcoholism, substance abuse, or chemical dependency facility at which the certificate holder works;

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- e. Residential and e-mail addresses;
 - f. Residential and mobile telephone numbers;
 - g. A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country denied the certificate holder a license or certificate to practice auricular acupuncture and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;
 - h. A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country revoked, suspended, limited, restricted, or took other action regarding the license or certificate of the certificate holder and if so, the name of the jurisdiction taking action, the action taken, date of the action, and an explanation of the circumstances;
 - i. A statement of whether during the last 12 months the certificate holder has been convicted of a crime, including driving under the influence of drugs or alcohol, other than a minor traffic offense, and if so, the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
 - j. A statement of whether during the last 12 months a claim for malpractice or a lawsuit was filed against the certificate holder alleging professional malpractice or negligence in the practice of auricular acupuncture, and if so, the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;
 - k. A statement of whether during the last 12 months the certificate holder has any condition that may impair the certificate holder's ability to practice auricular acupuncture safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
 - l. A statement of whether during the last 12 months the certificate holder resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances;
 - m. A statement of whether during the last 12 months the certificate holder had a health-care facility terminate, restrict, or take any other action regarding the certificate holder's employment, professional training, or privileges, and if so, the name of the health-care facility, the date of the action, and an explanation of the circumstances; and
 - n. The name, license number, and telephone number of the licensed acupuncturist who supervises the certificate holder;
- 2. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board;
 - 3. The renewal fee required under R4-8-106(A)(7); and
 - 4. The certificate holder's dated signature affirming that the information provided is accurate, true, and complete.
- E. The Board does not have authority to reinstate an expired auricular acupuncture certificate. An individual whose auricular acupuncture certificate expires because of failure to renew timely under subsection (D) may apply for certification by complying with R4-8-301.

R4-8-304. Recodified Notice of Change in Supervisor

- A. A certificate holder shall provide written notice to the Board within 10 days after one of the following occurs:
- 1. The certificate holder changes employment from one approved alcoholism, substance abuse, and chemical dependency program to another;
 - 2. The certificate holder ceases to practice as an auricular acupuncturist; or
 - 3. The licensed acupuncturist supervising the certificate holder changes.
- B. A certificate holder required to provide notice under subsection (A), shall include the following information in the notice:
- 1. Name and certificate number of the certificate holder;
 - 2. Name and address of the approved alcoholism, substance abuse, and chemical dependency program at which the certificate holder is employed; and
 - 3. Name, license number, and telephone number of the licensed acupuncturist supervising the certificate holder; or
 - 4. A statement that the certificate holder is not practicing as an auricular acupuncturist.

ARTICLE 4. TRAINING PROGRAMS AND CONTINUING EDUCATION

R4-8-401. Auricular Acupuncture Training Program Approval

- A. The Board approves an auricular acupuncture training program that is recognized by NADA.
- ~~A.B. To receive obtain~~ Board approval; of a an auricular acupuncture training program in acupuncture for the treatment of
~~alcoholism, substance abuse, or chemical dependency that is not approved under subsection (A), the provider of the training program shall submit to the Board evidence that the program is:~~
- 1. The program is conducted Conducted in accordance with the "NADA Registered Trainer Resource Manual," 1999, published by the National Acupuncture Detoxification Association, 3220 N Street NW #275, Washington, D.C. 20007, which is incorporated by reference and on file with the Board and the Secretary of State. This incorporation includes no later edition or amendment in R4-8-107; and

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2. ~~The program is approved~~ Approved by the ~~NADA,~~ another board-approved ~~national~~ certifying entity for acupuncture, ~~or another state.~~

B. A program that is denied approval may appeal by requesting a hearing under A.R.S. Title 41, Chapter 6, Article 10.

R4-8-402. Clean Needle Technique Course Approval

~~A.~~ To be approved by the Board, a person ~~who~~ that proposes to conduct a clean needle technique course shall submit to the Board evidence that the course is conducted in accordance with “Clean Needle Technique Manual for Acupuncturists,” 4th Edition, 1997, published by the National Acupuncture Foundation, 1718 M. Street, Suite 195, Washington, D.C. 20036, which is incorporated by reference and on file with the Board and the Secretary of State. This incorporation includes no later edition or amendment in R4-8-107.

B. A course that is denied approval may appeal by requesting a hearing under A.R.S. Title 41, Chapter 6, Article 10.

R4-8-403. Approval of ~~Program of an Acupuncture,~~ Clinical Trainings, or Preceptorship Training Program

A. To ~~obtain approval from~~ be approved by the Board, the provider of an acupuncture program shall submit to the Board either:

1. ~~Submit documentation~~ Documentation that the acupuncture program is a candidate for accreditation or has accreditation through the ACAOM and provides ~~a minimum of at least~~ 1850 hours of training, including ~~not less than at least~~ 800 hours of clinical training; or
2. ~~Submit documentation~~ Documentation of compliance with R4-8-304 that the acupuncture program meets the standards at R4-8-404(A).

B. To ~~obtain approval from~~ be approved by the Board, the provider of an acupuncture clinical training program shall submit to the Board either:

1. ~~Submit documentation~~ Documentation that the clinical training program is part of an acupuncture program that is a candidate for accreditation or has accreditation through the ACAOM, or is itself a candidate for accreditation or has accreditation through ACAOM; or
2. ~~Submit documentation~~ Documentation of compliance with R4-8-304(B) that the clinical program meets the standards at R4-8-404(B).

C. To ~~obtain approval from~~ be approved by the Board, the provider of a preceptorship training program shall submit documentation of ~~compliance with R4-8-311~~ meeting the standards at R4-8-411.

R4-8-404. Standards for an ~~Program of Acupuncture Standards~~ or Clinical Training Program

A. The Board shall approve ~~a program of an~~ an acupuncture program that does not meet the standard at ~~R4-8-303(A)(1)~~ R4-8-403(A)(1) only if the program:

1. ~~is~~ is for ~~a minimum of at least~~ three years;
2. ~~Complies with the essential requirements and attendant criteria in Part One of the “Accreditation Handbook,” which is incorporated by reference in R4-8-107; and~~
3. ~~provides~~ Provides the following course content and minimum hours:
 - 1-a. ~~690 hours in Oriental Traditional East-Asian~~ medical theory, diagnosis, and treatment techniques in acupuncture, and related studies; 690 hours;
 - 2-b. ~~800 hours in clinical~~ Clinical training: 800 hours; and
 - 3-c. ~~360 hours in biomedical~~ Biomedical clinical sciences: 360 hours.

B. The Board shall approve an acupuncture clinical training program that does not meet the standard of ~~R4-8-303(B)(1)~~ R4-8-403(B)(1) only if the clinical training program:

1. ~~Is operated by a person who owns and operates an acupuncture clinic,~~
2. ~~provides~~ Provides at least 75% of clinical instruction in ~~its~~ the acupuncture clinic, and
3. ~~provides~~ Provides direct patient contact in the following:
 - 1-a. ~~Supervised observation of the clinical practice of acupuncture with case presentations and discussions;~~
 - 2-b. ~~Application of Eastern and Western diagnostic procedures in evaluating~~ patients a patient; and
 - 3-c. ~~Clinical treatment of a patient with acupuncture~~ techniques.

C. To be approved by the Board, an acupuncture program shall ~~comply with the 14 Essential Requirements and their attendant criteria in the “Accreditation Handbook”, January 1998 Update, pages 9 through 41, published by the Accreditation Commission for Acupuncture and Oriental Medicine, 1010 Wayne Avenue, Suite 1270, Silver Spring, MD 20910, which is incorporated by reference and on file with the Board and the Secretary of State. This incorporation includes no later edition or amendment.~~

R4-8-405. Documentation Required for Approval

~~An~~ To obtain Board approval of an acupuncture program or clinical training program under R4-8-404, the provider of the program seeking approval by the Board shall provide submit or have the custodian of program records submit to the Board with documents and other evidence ~~requested by the Board to determine the nature and extent of the training offered, including that demonstrates that the program meets the standards in R4-8-404.~~ These documents and other evidence may include catalogues, course ~~description~~ descriptions, curricula plans, and study bulletins.

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R4-8-406. ~~Denial or Revocation of Approval Repealed~~

- ~~A. The Board may deny approval to or revoke the approval of any acupuncture program or clinical training program for its failure to comply with the rules in this Chapter or A.R.S. Title 32, Chapter 39.~~
- ~~B. An acupuncture program or clinical training program that has approval denied may request a hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10.~~
- ~~C. The Board shall conduct a hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10, before revoking an acupuncture program or clinical training program approval.~~

R4-8-407. ~~Acupuncture Program Monitoring; Records; Reporting~~

- ~~A. Every The provider of an approved acupuncture or clinical training program shall submit to the Board, within 60 days after the close of the program's fiscal year, a letter attesting that the acupuncture or clinical training program continues to meet the standards of ~~R4-8-303 and R4-8-304~~ R4-8-403 or R4-8-404, and a course catalog that includes:
 - ~~1. Course descriptions~~ A description of the courses in the next year's proposed curriculum;
 - ~~The A list of members of the program faculty, administration, or~~ and governing body; and
 - ~~3. A description of the program facility.~~~~
- ~~B. The provider of an approved preceptorship training program shall submit to the Board annually a letter attesting that the preceptorship training program continues to meet the standards at R4-8-411.~~
- ~~B.C. Representatives~~ A representative of the Board may conduct an onsite visit of an approved acupuncture, clinical training, or preceptorship training program to review and evaluate the status of the program. The provider of the approved program shall reimburse the Board for direct costs incurred in conducting this review and evaluation.
- ~~C.D. All~~ The provider of an approved acupuncture, clinical training, or preceptorship training program shall ensure that all student records shall be are maintained in English.
- ~~D.E. Each~~ The provider of an approved acupuncture, clinical training, or preceptorship training program of acupuncture shall, within 30 days, report to the Board any failure to comply with ~~R4-8-303 and R4-8-304~~ meet the standards at R4-8-403, R4-8-404, or R4-8-411.
- ~~E. Every approved preceptorship training program shall submit annually a letter attesting that the training program continues to meet the standards of R4-8-311.~~

R4-8-408. ~~Approval of Continuing Education Course~~

- ~~A. To be approved by the~~ The Board, shall approve a continuing education course shall only if the continuing education:
 - ~~1. Be Is~~ related to the knowledge or technical skills required used to practice acupuncture safely and competently; or
 - ~~2. Be Is~~ related to direct or indirect acupuncture patient care, including practice management, or medical ethics, or Chinese language; and
 - ~~3. Include~~ Includes a method by which the course continuing education participants evaluate:
 - ~~a. The extent to which the course continuing education met its stated objectives,~~
 - ~~b. The adequacy of the instructor's knowledge of the course subject taught,~~
 - ~~c. The use of appropriate teaching methods, and~~
 - ~~d. The applicability or usefulness of the course information provided; and~~
 - ~~4. Provides continuing education participants with a certificate of attendance that meets the requirements at R4-8-206(D).~~
- ~~B. The Board shall approve for a continuing education credit, without application under R4-8-409, any course if the continuing education is:~~
 - ~~1. approved~~ Approved by a licensing board of acupuncture licensing in another state, any course
 - ~~2. provided~~ Provided by the Continuing Education Council of NCCAOM, or
 - ~~3. the National Alliance for Acupuncture and Oriental Medicine, and any course provided~~ Provided by a board-approved acupuncture or clinical training program.

R4-8-409. ~~Application for Continuing Education Course Approval~~

- ~~A. To obtain the Board's approval for a continuing education course, a course the provider of the continuing education shall submit to the Board at least 45 days before teaching the continuing education:~~
 - ~~1. submit to the Board a request for course approval, in English, on a A form, provided by which is available from the Board, which includes containing the following information:~~
 - ~~1. The provider's name, provider's identification number, address, telephone number, and contact person;~~
 - ~~2. Course title, date, location, and number of continuing education hours;~~
 - ~~3. Method of instruction;~~
 - ~~4. Educational objectives to be met and course outline; and~~
 - ~~5. Instructor information and qualifications:~~
 - ~~a. Title of the continuing education;~~
 - ~~b. Name and address of the continuing education provider;~~
 - ~~c. Name, telephone and fax numbers of a contact person for the continuing education provider;~~
 - ~~d. Date, time, and place at which the continuing education will be taught, if known;~~

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- e. Subject matter of the continuing education;
- f. Method of instruction;
- g. Number of continuing education hours requested; and
- 2. The following documents:
 - a. Curriculum vitae of the continuing education instructor.
 - b. Objective of the continuing education.
 - c. Detailed outline of the continuing education.
 - d. Agenda for the continuing education showing the hours of instruction and the subject matter taught during each hour.
 - e. Method by which participants evaluate the continuing education. and
 - f. Certificate of attendance that meets the requirements at R4-8-206(D).
- B. ~~A provider shall obtain Board approval for every course that is offered for continuing education credit. If a previously approved course is repeated, the provider shall apply to the Board for approval of each subsequent administration of the course. The provider of a continuing education that is not approved under R4-8-408(B) shall not advertise that the continuing education is approved by the Board until the Board acts on an application submitted under subsection (A).~~
- C. ~~A provider shall submit a request for course approval to the Board at least 90 days before the course is offered. The Board's approval of a continuing education is valid for one year unless there is a change in subject matter, instructor, or hours of instruction. At the end of one year or when there is a change in subject matter, instructor, or hours of instruction, the continuing education provider shall apply again for approval.~~

R4-8-410. Denial or Revocation of Continuing Education Course Approval Repealed

- ~~A. The Board may withdraw its approval of a continuing education course or deny approval for a continuing education course for causes that include, but are not limited to:
 - 1- Failure to comply with any provision of these rules; and
 - 2- Any material misrepresentation of fact by a provider.~~
- ~~B. The Board may withdraw its approval of a course following a hearing conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.~~
- ~~C. A provider may appeal the denial of approval of a course by filing a written request for hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10.~~

R4-8-411. Preceptorship Training Standards

The Board shall approve a preceptorship training program ~~that~~ only if the preceptorship training program meets the following criteria:

- 1. ~~The preceptorship training program shall have a minimum of~~ Provides at least 4,000 hours of training in no fewer than three and no more than six consecutive years;
- 2. ~~The clinical training shall have a minimum of~~ Has at least 1,950 clinical hours that include:
 - a. Clinical observation;
 - b. History and physical examination;
 - c. Therapeutic diagnosis and treatment planning;
 - d. Preparation of the patient;
 - e. Sterilization, use, and maintenance of equipment;
 - f. Moxibustion;
 - g. Electro acupuncture (AC and DC voltages);
 - h. Acupuncture techniques, auricular acupuncture, acupressure, Tui Na, and other forms of ~~Oriental traditional~~ East-Asian bodywork;
 - i. Treatment of emergencies, including cardiopulmonary resuscitation;
 - j. Pre-treatment and post-treatment instruction to the patient;
 - k. Contraindications, precautions, and clean needle technique; and
 - l. Practice management and ethics;
- 3. ~~The didactic training shall have a minimum of~~ Has at least 1,050 hours of didactic training that include:
 - a. Traditional ~~Oriental~~ East-Asian medicine;
 - b. Acupuncture, Tui Na, ~~Oriental traditional~~ East-Asian bodywork, and clinical training techniques;
 - c. Traditional ~~Oriental~~ East-Asian exercise, including Qi Gong and Tai Chi;
 - d. Western sciences, which may be obtained at a college or university accredited by the U.S. Department of Education, including:
 - i. Anatomy;
 - ii. Physiology;
 - iii. Pathology and pathophysiology;
 - iv. Survey of western clinical medicine and sciences;
 - v. Psychology and counseling;

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- vi. Nutrition;
 - vii. General sciences (biology, chemistry, and physics);
 - viii. Medical terminology; and
 - ix. First aid and cardiopulmonary resuscitation;
4. ~~The preceptorship training program shall not enroll~~ Enrolls no more than two students at one time per Board-approved supervisor;
 5. ~~The preceptorship training program shall only enroll~~ Enrolls only students who:
 - a. Are at least 18 years old, and
 - b. Have official transcripts documenting at least 60 semester hours or 90 quarter hours of credit from a college or university accredited by the U.S. Department of Education; and
 6. ~~The preceptorship training program shall require~~ Requires each student, before admission, to sign a statement disclosing receipt of the following:
 - a. Preceptorship training requirements,
 - b. A ~~current~~ copy of the ~~Acupuncture~~ Board's current statutes and rules, and
 - c. A current copy of NCCAOM requirements for apprenticeship training programs.

R4-8-412. Approval of Preceptorship Training Program Supervisor

~~A.~~ The Board shall approve each an individual to be a supervisor for a Board-approved preceptorship training program only if the individual who is a:

1. ~~licensed acupuncturist~~ Is licensed under A.R.S. § 32-3924 and R4-8-203; and
 2. ~~submits~~ Submits to the Board an application, ~~using on~~ a form provided by the Board, ~~that which~~ includes:
 - 1-a. Name, date of birth, and Social Security number;
 - 2-b. Current license number and expiration date;
 3. ~~Whether the licensed acupuncturist has ever had a licensing authority of any state, district, or territory of the United States, or any other country or subdivision of any country, deny the applicant a license or certificate to practice acupuncture, or revoke, suspend, limit, restrict, or take any other action regarding the applicant's license or certificate to practice acupuncture, and if so, a written explanation;~~
 4. ~~Documentation of a minimum of 10 years of experience in the practice of acupuncture and a current practice that includes a minimum of 500 acupuncture patient visits by no fewer than 100 different patients during each year. Patient visits shall be in a general health care practice, excluding specialized limited practice such as substance abuse or addiction.~~
 - c. Name of the Board-approved preceptorship training program and the date on which it was approved by the Board; and
 - 5-d. The address where Address of the facility at which the preceptorship training program will be provided;;
 3. Submits to the Board documentation of:
 - a. At least 10 years of experience in the practice of acupuncture; and
 - b. A current general health care practice that annually includes at least:
 - i. Five hundred acupuncture patient visits, and
 - ii. One hundred different patients; and
 4. Signs and dates the form certifying that if approved by the Board, the individual shall be solely responsible for supervising a student enrolled in the approved preceptorship training program and assigned to the individual for supervision.
- ~~B.~~ The licensed acupuncturist shall certify to the Board that the acupuncturist shall be solely responsible for the supervision of an enrolled student assigned to the acupuncturist for supervision.

ARTICLE 5. REGULATORY PROVISIONS SUPERVISION; RECORDKEEPING

R4-8-501. Treatment of Patients by Acupuncture Students; Supervision

- A. ~~For~~ Before a supervising acupuncturist allows an acupuncture student to treat a patient, the student and the student's supervisor supervising acupuncturist shall:
 1. Consult with the acupuncture student regarding the treatment to be provided;
 2. Ensure that the acupuncture student has the level of training required to provide the treatment safely and effectively;
 - 1-3. ~~Obtain~~ Ensure that written evidence of informed consent is obtained in writing from the patient ~~before treatment by an acupuncture student~~, indicating that the patient knows a student will be treating the patient; and
 - 2-4. ~~Have~~ Ensure that a the supervisor is physically present in the clinic during any patient treatment ~~of the patient~~ performed by ~~an~~ the acupuncture student;
 3. ~~Consult each other before and after each treatment; and~~
 4. ~~Maintain records for each patient treated in accordance with R4-8-402.~~
- B. ~~The supervisor shall assign only patient treatments that can safely and effectively be performed by the student given the student's level of training.~~ If an acupuncture student treats a patient, the supervising acupuncturist shall ensure that records of the treatment:

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1. Are maintained as required under R4-8-502;
2. Include the written evidence of informed consent required under subsection (A)(3), and
3. Indicate the names of both the supervising acupuncturist and the acupuncture student.

R4-8-502. Recordkeeping

- A. An acupuncturist shall:
1. Make ~~maintain~~ a complete, legible, and accurate ~~records on record~~ of each patient ~~who is given to whom an~~ acupuncture treatment ~~is given~~. The acupuncturist shall ensure that a patient record is in English and includes: ~~including the name~~
 - a. Name of the patient,
 - b. Patient history,
 - c. ~~dates~~ Dates of treatment, ~~history,~~
 - d. ~~treatment~~ Treatment given, and
 - e. ~~progress~~ Progress made during acupuncture treatments; and
 2. Maintain a patient record for six years after the last treatment of the patient or as prescribed at A.R.S. § 12-2297, whichever date occurs later.
- B. ~~Acupuncture programs~~ The provider of an acupuncture, auricular acupuncture, clinical ~~training programs, and or~~ preceptorship training ~~programs~~ program shall; safeguard, and maintain
1. Make accurate and complete records that include, of:
 - a. ~~Compliance with the program standards in permanent program and student academic records that document all of the program requirements according to Article 3 4 of this Chapter, and~~
 - b. Students enrolled in the program. The provider shall ensure that a student record indicates:
 - i. Name of the student;
 - ii. Date enrolled;
 - iii. Courses taken;
 - iv. Grade obtained in each course;
 - v. Date on which the program was completed or the student ceased to participate; and
 - vi. Whether the student was awarded a diploma, degree, or certificate of completion.
 2. Maintain the records required under subsection (B)(1)(a) for six years, and
 3. Maintain the records required under subsection (B)(1)(b) for 25 years after the student completes or is last enrolled in the program or as required by A.R.S. § 32-3001 et seq. and the rules of the Board of Private Postsecondary Education, whichever is longer.
- C. ~~Programs shall award a certificate, diploma, or degree in compliance with state and federal law to each student successfully completing a program. The provider of an approved continuing education shall:~~
1. Make accurate and complete records of:
 - a. The Board's approval of the continuing education;
 - b. The date, time, and location of each presentation of the continuing education; and
 - c. Participants at each presentation of the continuing education.
 2. Maintain the records required under subsection (C)(1) for two years.

R4-8-503. Supervision of ~~an Auricular Acupuncturists~~ Acupuncturist

- A licensed acupuncturist supervising an auricular acupuncture certificate holder shall:
1. ~~be promptly~~ Be available promptly to consult with the auricular acupuncture certificate holder in person, by phone telephone, or electronically during normal working hours, ~~and shall meet onsite with certificate holders at least once a month to assess compliance with these laws and rules; and~~
 2. Ensure that the auricular acupuncture certificate holder performs auricular acupuncture safely and effectively and complies with the law regarding auricular acupuncture.

ARTICLE 6. ~~RESERVED~~ COMPLAINTS; HEARING PROCEDURES; DISCIPLINE

R4-8-601. Making a Complaint

- A.** Anyone, including the Board, may file a complaint that alleges a violation of A.R.S. Title 32, Chapter 39 or this Chapter.
- B.** A complaint may be filed against:
1. An individual licensed under A.R.S. § 32-3921 and R4-8-203;
 2. An individual certified under A.R.S. § 32-3922 and R4-8-301;
 3. An individual certified under A.R.S. § 32-3926 and R4-8-208; or
 4. An individual who is not exempt under A.R.S. § 32-3921(B) and believed to be practicing acupuncture without a license or certificate issued under A.R.S. Title 32, Chapter 39 and this Chapter.
- C.** To file a complaint, an individual shall provide the following information, either orally or in writing, to the Board:
1. Date;
 2. Name, address, and telephone number of the individual complained against;

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3. Name, address, and telephone number of the complainant;
 4. If the complaint is filed on behalf of a third party, the name and address of the third party;
 5. The date on which the complaint was last discussed with the individual complained against or a representative of an involved business:
 - a. A statement of whether the last discussion of the complaint was by telephone or in person, and
 - b. The name of the individual with whom the complaint was last discussed; and
 6. A detailed description, including dates, of the events alleged to constitute a violation of A.R.S. Title 32, Chapter 39 or this Chapter.
- D.** A complainant shall file a complaint within 90 days of the events alleged to constitute a violation of A.R.S. Title 32, Chapter 39 or this Chapter.
- E.** A complainant may withdraw a complaint at any time by providing notice to the Board.

R4-8-602. Complaint Procedures

- A.** The Board shall review a complaint to determine whether it meets the requirements under R4-8-601. If a complaint does not meet the requirements under R4-8-601, the Board shall provide written notice to the complainant that the complaint is dismissed without further action.
- B.** If the Board determines that a complaint meets the requirements under R4-8-601, the Board shall assess whether the complaint alleges a violation of A.R.S. Title 32, Chapter 39 or this Chapter and:
1. Dismiss the complaint if the Board determines that the allegation, if true, does not amount to a violation of A.R.S. Title 32, Chapter 39 or this Chapter and provide written notice of the dismissal to the complainant; or
 2. Serve a copy of the complaint on the respondent if the Board determines that the allegation, if true, amounts to a violation of A.R.S. Title 32, Chapter 39 or this Chapter and provide the respondent with 20 days to submit:
 - a. A response in which the individual admits, denies, or further explains each allegation in the complaint; and
 - b. Records relevant to the complaint.
- C.** If a respondent responds to a complaint, the Board shall send a copy of the response to the complainant and provide five days for the complainant to submit a rebuttal.
- D.** When the times provided under subsections (B)(2) and (C) expire, the Board shall conduct an investigation and prepare a report that summarizes the complaint and results of the investigation. The Board shall:
1. Provide a copy of the investigative report to the complainant and respondent; and
 2. Provide written notice to the complainant and respondent of the date, time, and location of the Board meeting at which the complaint will be considered.
- E.** Both the complainant and respondent may be represented by an attorney at the Board meeting at which the complaint is considered.
- F.** At the Board meeting at which a complaint is considered, the Board shall:
1. Provide the complainant and respondent with an opportunity to address the Board, present evidence, and cross-examine witnesses; and
 2. Negotiate an equitable and just resolution of the matters asserted in the complaint; or
 3. Forward the complaint to a formal hearing.

R4-8-603. Hearing Procedures

The Board shall conduct any hearing required by law according to the procedures in A.R.S. Title 41, Chapter 6, Article 10.

R4-8-604. Rehearing or Review of Decision

- A.** The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10.
- B.** Except as provided in subsection (I), a party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D.** The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings of the Board or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Board, its staff, or an administrative law judge;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalty;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
 7. The findings of fact or a decision is not justified by the evidence or is contrary to law.
- E.** The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons listed in subsection (D). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds for the order. If a rehearing or review is granted, the rehearing or review shall

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cover only the matters specified in the order.

- F.** Within 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. An order granting a rehearing or review shall specify with particularity the grounds on which the rehearing or review is granted.
- G.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. This period may be extended by the Board for a maximum of 20 days for good cause as described in subsection (H) or by written stipulation of the parties. Reply affidavits may be permitted.
- H.** The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence, and a ruling on the motion will:
 - 1. Further administrative convenience, expedition, or economy; or
 - 2. Avoid undue prejudice to any party.
- I.** If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If an application for judicial review of the decision is made, it shall be made under A.R.S. § 12-901 et seq.

R4-8-605. Disciplinary Action

After a Board meeting at which a complaint is considered or after a hearing that results in a determination that a licensee or certificate holder violated A.R.S. Title 32, Chapter 39 or this Chapter, the Board shall consider the following factors to determine the degree of discipline to impose under A.R.S. § 32-3951:

- 1. Prior conduct resulting in discipline;
- 2. Dishonest or self-serving motive;
- 3. Amount of experience as an acupuncturist;
- 4. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the Board;
- 5. Submission of false evidence, false statements, or other deceptive practices during the investigative or disciplinary process;
- 6. Refusal to acknowledge wrongful nature of conduct;
- 7. Degree of harm resulting from the conduct; and
- 8. Whether harm resulting from the conduct was cured.

ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES

R4-8-702. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact

- A.** A person may petition the Board under A.R.S. § 41-1033 for a:
 - 1. Rulemaking action relating to a Board rule, including making a new rule or amending or repealing an existing rule; or
 - 2. Review of an existing Board practice or substantive policy statement alleged to constitute a rule.
- B.** A person may petition the Board under A.R.S. § 41-1056.01 objecting to all or part of a Board rule because the actual economic, small business, or consumer impact of the rule:
 - 1. Exceeds the estimated economic, small business, or consumer impact of the rule; or
 - 2. Was not estimated and imposes a significant burden on persons subject to the rule.
- C.** To act under A.R.S. § 41-1033 or 41-1056.01 and this Section, a person shall submit to the Board a written petition including the following information:

~~A petition to adopt, amend, or repeal a rule or to review an existing agency practice or substantive policy statement that a petitioner alleges to constitute a rule under A.R.S. § 41-1033 or to object to a rule in accordance with A.R.S. § 41-1056.01 shall be filed with the Board as prescribed in this Section. Each petition shall contain:~~

- 1. ~~The name, and current address home or business and e-mail addresses, and telephone and fax numbers of the petitioner;~~
- 2. ~~For the adoption of a new rule, the specific language of the proposed rule Name of any person represented by the petitioner;~~
- 3. ~~For the amendment of a current rule, the citation for the applicable Arizona Administrative Code number and rule title. The petition shall include the specific language of the current rule with any language to be deleted stricken through but legible, and any new language underlined; If requesting a rulemaking action:~~
 - a. Statement of the rulemaking action sought, including the A.A.C. citation to all existing rules, and the specific language of a new rule or rule amendment; and

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- b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful;
 - 4. For the repeal of a current rule, the citation for the applicable A.A.C. number and title of the rule proposed for repeal; If requesting a review of an existing Board practice or substantive policy statement:
 - a. Subject matter of the existing practice or substantive policy statement; and
 - b. Reasons why the existing practice or substantive policy statement constitutes a rule.
 - 5. The reason a rule should be adopted, amended, or repealed, and if in reference to an existing rule, why the rule is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. The petitioner may provide additional supporting information, including If objecting to a rule because of its economic, small business, and consumer impact statement:
 - a. Any statistical data or other justification, with clear reference to an attached exhibit The A.A.C. citation of the rule to which objection is made; and
 - b. An identification of what persons or segment of the public would be affected and how they would be affected A description of how the actual economic, small business, or consumer impact of the rule differs from that estimated; and or
 - c. If the petitioner is a public agency, a summary of relevant issues raised in any public hearing, or as written comments offered by the public A description of the actual economic, small business, or consumer impact of the rule and an assessment of the burden on persons subject to the rule; and
 - 6. For a review of an existing Board practice or substantive policy statement alleged to constitute a rule, the reason the existing Board practice or substantive policy statement is believed to constitute a rule and the proposed action requested of the Board Dated signature of the petitioner.
 - 7. For an objection to a rule based upon the economic, small business, or consumer impact, evidence that:
 - a. The actual economic, small business, or consumer impact significantly exceeded the impact estimated in the economic, small business, and consumer impact statement submitted during the making of the rule; or
 - b. The actual economic, small business, or consumer impact was not estimated in the economic, small business, and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule.
 - 8. The signature of the person submitting the petition.
- D.** A person may submit supporting information with a petition.

R4-8-704. Oral Proceedings

- A. A person requesting an oral proceeding, as prescribed in A.R.S. § 41-1023(C), shall:
 - 1. File the request with the Board;
 - 2. Include the name and current address of the person making the request; and
 - 3. Refer to the proposed rule and include, if known, the date and issue of the *Arizona Administrative Register* in which the notice of the proposed rule is published.
- B. The Board shall make a record of an oral proceeding, either electronically or stenographically, and The Board shall make any cassette tape, transcript, register, and written comment received material submitted during an oral proceeding part of the official rulemaking record.
- C. The presiding officer shall use the following guidelines to conduct an oral proceeding:
 - 1. Registration of attendees. Registration of attendees is voluntary;
 - 2. Registration of persons intending to speak. A person wishing to speak shall provide the following information on a form that is available from the Board:
 - a. person's name Name,
 - b. representative Representative capacity, if applicable,
 - c. a notation of the person's position with regard to Whether the person supports or opposes the proposed rule, and
 - d. the approximate Approximate length of time the person wishes to speak;
 - 3. Opening of the record. The presiding officer shall open the proceeding by identifying the rule to be considered and the location, date, time, and purpose of the proceeding, and by presenting the agenda;
 - 4. A statement by Board representative. A Board representative shall explain the background and general content of the proposed rule;
 - 5. A public oral comment period. Any person may speak at an oral proceeding. A person who speaks shall ensure that all comments address the proposed rule being considered. A person who speaks may ask questions regarding the proposed rule and present oral argument, data, and views on the proposed rule. The presiding officer may limit the time allotted to each speaker and preclude undue repetition; and
 - 6. Closing remarks. The presiding officer shall announce the location and last day for submitting written comments about the proposed rule.

R4-8-706. Written Criticism of Rule

- A. Any A person may file a written criticism of an existing rule with the Board.

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- B. ~~The criticism~~ A person filing a written criticism of a rule shall clearly identify the rule by its A.A.C. citation and specify why the ~~existing~~ rule is inadequate, unduly burdensome, unreasonable, or otherwise improper.
- C. The Board shall acknowledge receipt of any criticism within 15 days and shall place the criticism in the official record for review by the Board under A.R.S. § 41-1056.

NOTICE OF FINAL RULEMAKING

TITLE 13. PUBLIC SAFETY

CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY
TOW TRUCKS

[R08-42]

PREAMBLE

1. **Sections Affected**

R13-3-203	<u>Rulemaking Action</u>
Article 9	Amend
R13-3-902	Amend
R13-3-1003	Amend
R13-3-1004	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 28-1108(D)
Implementing statute: A.R.S. § 28-1108
3. **The effective date of the rules:**

April 5, 2008
4. **List of all previous notices appearing in the Register, addressing the final rules:**

Notice of Rulemaking Docket Opening: 13 A.A.R. 2172, June 22, 2007
Notice of Proposed Rulemaking: 13 A.A.R. 3324, October 5, 2007
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Sergeant Jim Chavez
Address: P.O. Box 6638
Mail Drop 1250
Phoenix, AZ 85005-6638
Telephone: (602) 223-2315
Fax: (602) 223-2923
E-mail: jchavez@azdps.gov
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking is authorized by A.R.S. § 28-1108(D). The rules are primarily used by tow truck companies regulated by the Arizona Department of Public Safety. The rulemaking is being initiated for a technical correction relating to lift capacity and to improve efficiency by changing in-service tow truck inspections from an annual to random basis. Initial inspection requirements for tow trucks entering service or changing ownership would not be effected.
7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The agency did not review any study related to the rules.
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable
9. **The summary of the economic, small business, and consumer impact:**

These rules affect the towing industry, the Department of Public Safety, and the motoring public using tow truck services. No fee is charged towing companies for either the safety inspection or the permit decal. The rules do not

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impose a change in business practices or require additional equipment. The motoring public, as primary consumer of tow truck services, will benefit from more widespread inspections ensuring enforcement of safety standards and equipment use. The Department of Public Safety will benefit through more efficient use of resources in the inspection process.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor grammatical changes were made at the suggestion of the G.R.R.C. staff.

11. A summary of the comments made regarding the rule and the agency response to them:

A public hearing was held on November 8, 2007 in Phoenix. No changes in the proposed rules were received either orally or in writing.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously made an emergency rule?

No

15. The full text of the rules follows:

TITLE 13. PUBLIC SAFETY

**CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY
TOW TRUCKS**

ARTICLE 2. TOW TRUCK PERMITS

Section

R13-3-203. Inspection by the Department

ARTICLE 9. TOW TRUCK REGISTRATION AND ANNUAL TOW TRUCK COMPLIANCE INSPECTION

Section

R13-3-902. Inspection by the Department

ARTICLE 10. TOW TRUCK SPECIFICATIONS BY CLASS

Section

R13-3-1003. Light-duty Flatbed Tow Trucks

R13-3-1004. Light-duty Flatbed Tow Truck with Collision Recovery Capabilities

ARTICLE 2. TOW TRUCK PERMITS

R13-3-203. Inspection by the Department

- A. As soon as possible after the tow truck application has been filed, the Department may ~~cause~~ conduct a physical inspection of the tow truck, ~~to be conducted~~. If the tow truck is found to conform to the minimum standards of the class permit requested and the application meets the requirements set forth in these rules ~~and regulations~~, and the Department shall approve the application is approved, and the Director said tow truck shall be issued issue a permanent identification number for the tow truck, by the Director. The Department inspector This identification number shall be affixed affix this identification number inside the cab of the tow truck, ~~by the Department inspector~~.
- B. In addition to the identification number, the Department shall issue the tow truck shall be issued an annual permit in the form of an inspection sticker which shall that contain contains such pertinent information as is deemed necessary by the Department. The tow truck owner shall conspicuously display the This inspection sticker shall be conspicuously displayed on the outside lower right-hand corner of the truck's front windshield.
- C. ~~Annual inspections shall be conducted~~ The Department may conduct unannounced, in-service inspections of a tow truck at the roadside, at the company's place of business, or any reasonable time and place shall be conducted to determine the condition of the tow truck. ~~A tow truck meeting the minimum standards for its class may be granted a renewal of the permit.~~
- D. Nothing in these rules ~~shall serve to prohibit~~ prohibits any peace officer from conducting an inspection without notice to determine the fitness of a tow truck at any reasonable time and place.
- E. If during an inspection, a tow truck is found to be in need of repair to meet the minimum standards for its class, the ~~annual~~

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~~Department shall suspend the permit shall be suspended and the tow truck owner shall remove the truck be removed from service until such the repairs are effected, and the tow truck is inspected, and recertified by the Department rescinds the permit suspension.~~

F. This Section is automatically repealed on June 1, 2010.

ARTICLE 9. TOW TRUCK REGISTRATION AND ANNUAL TOW TRUCK COMPLIANCE INSPECTION

R13-3-902. Inspection by the Department

A. The Department shall inspect a tow truck for compliance with this Chapter: as soon as possible after the tow truck inspection application form is filed and no later than seven days after the application form is filed.

- ~~1. As soon as possible after the tow truck inspection application form is filed and no later than seven days after the form is filed; and~~
- ~~2. Annually for each tow truck owned, leased, or operated by the tow truck company or the tow truck agent beginning with the month indicated on the tow truck company application form.~~

B. The Department may conduct unannounced, in-service inspections of a tow truck at the roadside, at the company's place of business, or any reasonable time and place to determine the condition of the tow truck.

~~B.C.~~ The Department shall issue tow truck permit decals and identification number decals individually for each approved tow truck.

~~C.D.~~ When an annual a tow truck inspection is required conducted under subsection (A) or (B), ~~the tow truck agent shall schedule an appointment with the Department within 30 calendar days before the permit decal expiration date. the following apply:~~

1. Department inspectors shall examine the tow truck for compliance with the safety requirements and specifications for the tow truck class under this Chapter.
2. If the Department finds that the tow truck complies with this Chapter, the Department shall issue ~~a permit decal and an~~ inspection report and if applicable, a permit decal.
3. If the Department finds that the tow truck does not comply with this Chapter, but has no deficiency listed in R13-3-1201(C)(7), the Department shall issue ~~a permit decal and an~~ inspection report that:
 - a. Specifies the deficiencies found,
 - b. Requires corrective measures, and
 - c. Allows five calendar days for the tow truck agent to correct the deficiencies.
4. If the Department finds that the tow truck does not comply with this Chapter because of deficiencies listed in R13-3-1201(C)(7), the Department shall not issue a permit decal but shall issue an inspection report that:
 - a. Specifies the deficiencies found, and
 - b. Requires corrective measures.

~~D.E.~~ A tow truck agent shall ensure that a legible copy of the most recent tow truck inspection report is kept in the driver's compartment area of the tow truck and is produced upon demand to any peace officer. The Department may suspend a tow truck permit decal for failure to comply with this subsection.

1. A tow truck agent shall ensure that:
 - a. A permit decal is affixed to the lower outside right corner of the tow truck's windshield, and
 - b. An identification number decal is permanently affixed to the driver's compartment area.
2. The Department may suspend a permit decal for failure to maintain the permit decal or identification number decal in compliance with subsection ~~(D)(1)~~ (E)(1).
3. If a tow truck inspection report, permit decal, or identification number decal is lost, damaged, destroyed, or stolen, the tow truck company shall immediately notify the Department.
 - a. The tow truck company shall provide notification in writing to Arizona Department of Public Safety, P.O. Box 6638, Phoenix, AZ 85005-6638, and include the name of the tow truck agent who registered the tow truck and the number of the lost, damaged, destroyed, or stolen inspection report, permit decal, or identification number decal.
 - b. Upon receipt of the notification, the Department shall issue the replacement inspection report, permit decal, or identification number decal.

ARTICLE 10. TOW TRUCK SPECIFICATIONS BY CLASS

R13-3-1003. Light-duty Flatbed Tow Truck

A light-duty flatbed tow truck has a minimum of:

1. A G.V.W.R. of 10,000 pounds;
2. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
3. A bed assembly with a distributed load capacity of 7,500 pounds;
4. A wheel-lift or under-lift with a lifting capacity of ~~3,000~~ 2,000 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets requirements of R13-3-1201(C)(16), if so equipped;

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6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
8. Brakes that meet the requirements of R13-3-1103.

R13-3-1004. Light-duty Flatbed Tow Truck with Collision Recovery Capabilities

A light-duty flatbed tow truck with collision recovery capabilities has a minimum of:

1. A G.V.W.R. of 14,001 pounds;
2. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
3. A bed assembly with a distributed load capacity of 7,500 pounds;
4. A wheel-lift or under-lift with a lifting capacity of ~~3,000~~ 2,500 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
8. Brakes that meet the requirements of R13-3-1103.