



NOTICES OF PROPOSED RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same Register issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the Register within three weeks of filing. See the publication schedule in the back of each issue of the Register for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 8. ACUPUNCTURE BOARD OF EXAMINERS

PREAMBLE

[R16-40]

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:
4. The agency's contact person who can answer questions about the rulemaking:
5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

An exemption from Executive Order 2015-01 was provided for this rulemaking by Ted Vogt, Chief of Operations in the Governor's office, in an e-mail dated July 30, 2015.



6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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 Board does not intend to review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

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

Not applicable

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

It is legislative action rather than this rulemaking that requires eliminating preceptorships, disclosure of all health care licenses, expanding qualifying education, and a criminal background check before licensure. The rulemaking simply makes the rules consistent with statutory changes and will have minimal economic impact.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

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: PeteGonzalez@azacupunctureboard.us
 Web site: acupuntureboard.az.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding regarding the proposed rules will be held as follows:

Date: Tuesday, May 3, 2016
 Time: 9:00 a.m.
 Location: 1400 W. Washington St., Room B-1, Phoenix, AZ 85007

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The licenses listed in Table 1 and issued by the Board are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

There are many federal laws applicable to health-care professionals and the provision of health care. However, none of these laws is directly applicable to this rulemaking.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 8. ACUPUNCTURE BOARD OF EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

R4-8-101. Definitions
 Table 1. Time-frames (in days)



ARTICLE 2. ACUPUNCTURE LICENSING; VISITING PROFESSOR CERTIFICATE

R4-8-203. Application for Acupuncture License

ARTICLE 4. TRAINING PROGRAMS AND CONTINUING EDUCATION

R4-8-403. Approval of an Acupuncture, or Clinical Training, or Preceptorship Training Program
R4-8-407. Program Monitoring; Records; Reporting

ARTICLE 5. SUPERVISION; RECORDKEEPING

R4-8-502. Recordkeeping

ARTICLE 1. GENERAL PROVISIONS

R4-8-101. Definitions

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

“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, or auricular acupuncture, or preceptorship training program.

“Acupuncturist” means an individual licensed or certified by the Board to practice acupuncture in this state.

“Administrative completeness review” means the Board’s process for determining whether an applicant provided a complete application packet.

“Applicant” means an individual who applies to the Board for an initial or renewal license or certificate.

“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.

“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.

“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.

“Course” means a systematic learning experience that assists a participant to acquire knowledge, skills, and information relevant to the practice of acupuncture.

“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.

“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.

“NADA” means the National Acupuncture Detoxification Association.

“NCCAOM” means the National Certification 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.

“Successful completion of a clean needle technique course” means a course participant:

Attended the course, and

Received a passing score on an examination or other confirmation from the course provider that evidences that the participant mastered the course content.

“Supervisor” means an acupuncturist licensed by the Board who is responsible for the oversight and direction of an acupuncture student or a certificate holder.



Table 1. Time-frames (in days)

Type of license, certificate, or approval	Authority	Administrative Completeness Time-frame	Time to Complete	Substantive Review Time-frame	Time to Respond	Overall Time-frame
Acupuncture License	A.R.S. § 32-3924; R4-8-203	20	30	40	30	60
Visiting Professor Certificate	A.R.S. § 32-3926; R4-8-208	20	30	40	30	60
Auricular Acupuncture Certificate	A.R.S. § 32-3922; R4-8-301	20	30	40	30	60
Auricular Acupuncture Training Program	A.R.S. § 32-3922; R4-8-401	20	30	40	30	60
Acupuncture Program	A.R.S. § 32-3924(2); R4-8-403	20	30	40	30	60
Clinical Training Program	A.R.S. § 32-3924(2); R4-8-403	20	30	40	30	60
Clean Needle Technique Course	A.R.S. § 32-3924; R4-8-402	20	30	40	30	60
Preceptorship Training Program	A.R.S. § 32-3903; R4-8-411	20	30	40	30	60
Preceptorship Training Program Supervisor	A.R.S. § 32-3903; R4-8-412	20	30	40	30	60
Continuing Education Approval	A.R.S. § 32-3925; R4-8-409	20	30	40	30	60
Renewal of License or Certificate	A.R.S. § 32-3925; R4-8-204 or R4-8-303	20	30	40	30	60
Extension of Visiting Professor Certificate	A.R.S. § 32-3926(C); R4-8-208	20	30	40	30	60
Reinstatement of License	A.R.S. § 32-3925(D); R4-8-205	20	30	40	30	60

ARTICLE 2. ACUPUNCTURE LICENSING; VISITING PROFESSOR CERTIFICATE

R4-8-203. Application for Acupuncture License

A. No change

1. No change

- a. No change
- b. No change
- c. No change
- d. No change
- e. No change
- f. No change

g. A statement of whether the applicant has ever been permitted by law to practice ~~acupuncture~~ a health-care profession in this or another state, territory, or district of the United States, or another country or subdivision of another country, and if so:

- i. A list of the jurisdictions in which the applicant has been permitted by law to practice ~~acupuncture~~ a health-care profession;
- ii. No change
- iii. No change
- iv. No change
- v. No change
- vi. ~~Current status of each license~~; and
- vii. ~~No change~~

h. No change



- i. ~~A~~ If not certified by the NCCAOM, 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;
 - i. Has passed all the following NCCAOM modules: Point Location; Foundations of Oriental Medicine; Biomedicine; and Acupuncture; or
 - ii. Has passed the State of California Acupuncture Licensing Examination;
- j. ~~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;~~
- k-j. No change
- l-k. No change
- m-l. No change
- n-m. No change
- o-n. No change
- p-o. No change
- q-p. No change
- r-q. No change
- 2. An official record or document that relates to the applicant’s explanation of an item under subsections ~~(1)(4)~~ (A)(1)(k) through (1)(r) (A)(1)(q);
- 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 4. No change
- 5. 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;~~
- 6. No change
- 7. A complete set of fingerprints that meet the criteria of the Federal Bureau of Investigation and are taken by a law enforcement agency or other qualified entity and the amount charged by the Department of Public Safety to process the fingerprints for a state and federal criminal records check; and
- 7-8. No change
- B. In addition to the materials required under subsection (A), an applicant shall provide evidence that the applicant completed at least 1,850 hours of training in acupuncture, including at least 800 clinical hours, by having submitted directly to the Board:
 - 1. ~~An~~ an official transcript from each school at which the applicant attended a Board-approved acupuncture program showing:
 - a-1. No change
 - b-2. No change
 - e-3. No change
 - d-4. No change
 - e-5. No change
 - f-6. 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,
 - e. 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. No change

ARTICLE 4. TRAINING PROGRAMS AND CONTINUING EDUCATION

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

- A. No change
 - 1. No change
 - 2. No change
- B. No change
 - 1. No change
 - 2. No change
- C. ~~To be approved by the Board, the provider of a preceptorship training program shall submit documentation of meeting~~



the standards at R4-8-411.

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

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
- ~~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.
- ~~C.~~ A representative of the Board may conduct an onsite visit of an approved acupuncture, or 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.
- ~~D.~~ ~~C.~~ The provider of an approved acupuncture, or clinical training, ~~or preceptorship training~~ program shall ensure that all student records are maintained in English.
- ~~E.~~ ~~D.~~ The provider of an approved acupuncture, or clinical training, ~~or preceptorship training~~ program shall, within 30 days, report to the Board any failure to meet the standards at R4-8-403; or R4-8-404; ~~or R4-8-411.~~

ARTICLE 5. SUPERVISION; RECORDKEEPING

R4-8-502. Recordkeeping

- A. No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - 2. No change
- B. The provider of an acupuncture, auricular acupuncture, or clinical, ~~or preceptorship~~ training program shall:
 - 1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. No change
 - 2. No change
 - 3. No change
- C. No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - 2. No change