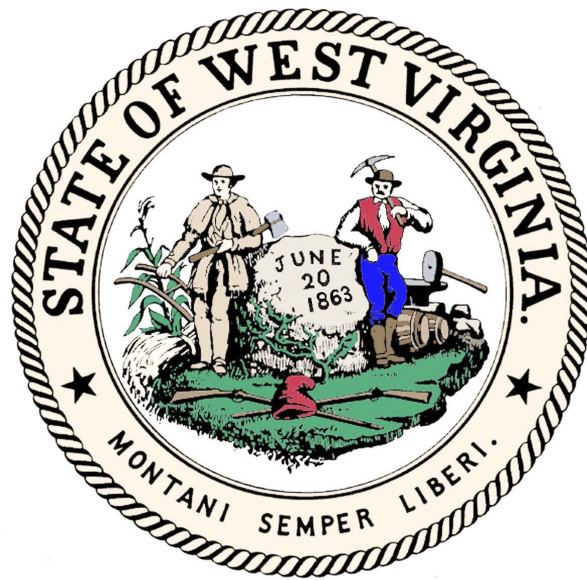


West Virginia Board of Acupuncture



Annual Report 2007 and 2008

Joe Manchin III,
Governor

Michelle DeStefano, LAc
Shepherdstown
Marian Hollinger
Morgantown
Brian Stephen Love, MD
Beckley



179 Summers Street Suite 711
Charleston, WV 25301
Ph. (304) 558-2235 Fax (304) 558-2236
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C. P. Negri, OMD, NMD
Fairmont
Darrell E. Samples, ND, OMD
Huntington

~State of West Virginia~
Board of Acupuncture

The Honorable Joe Manchin, III
Governor of West Virginia
State Capitol Building
Charleston, WV 25305

Dear Governor Manchin,

The West Virginia Board of Acupuncture is pleased to provide you with our report for the fiscal years 2007 and 2008. The report is hereby submitted in compliance with statutory requirements.

The Board is charged with the administration and enforcement of the provisions of Chapter 30, Article 36 of the West Virginia Code governing the profession of Acupuncture. This report is submitted in accordance with Chapter 30, Article 1, Section 12 which requires a financial report of total revenues and expenditures and a complete list of names licensed by it during such period. Other information enclosed is a list of the current board members, board meeting minutes as well as other pertinent information.

The West Virginia Board of Acupuncture continues to strive for maximum efficiency in serving the people of West Virginia.

Sincerely,

Linda Lyter
Executive Director

cc: Secretary of State
Clerk of the Senate
Clerk of the House of Representatives
Legislative Librarian
Director of Archives and History
Association of Licensing Boards

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Governor

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~State of West Virginia~
Board of Acupuncture

The Honorable Betty Ireland
Secretary of State
State Capitol
Charleston, WV 25305

Dear Secretary of State Ireland,

In accordance with West Virginia Code § 30-1-12(b), The West Virginia Board of Acupuncture presents herein our agency's Annual Report for Fiscal Year's 2007 and 2008.

This report has been submitted to the Governor's office and to the Clerks of the WV Senate and WV House of Delegates, Legislative Librarian and to the Director of Archives and History.

Yours truly,

Linda Lyter
Executive Director

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Summary

2007 Annual Report West Virginia Board of Acupuncture

The Board of Acupuncture was established by an act of the Legislature and signed into law by Governor Gaston Caperton in 1996, W. Va. Code §30-36-1 et seq. The Board was continued by the Legislature, W. Va. Code §30-36-20.

The Board is a self-sustaining licensure board which operates with fees collected from licensees. It does not receive funds from WV's general revenue fund.

The Board of Acupuncture consists of three professional members, one physician member and one public member. The members of the Board are:

Michelle DeStefano, L. Ac., professional member
Marian Hollinger, public member
Brian Stephen Love, M. D., physician member
C. P. Negri, OMD, professional member
Darrell E. Samples, OMD, professional member

The Board continues its normal functions of regulating the practice of Acupuncture and Oriental medicine to provide for the safety of the citizens of WV, following legislative intent.

Legislative Audit - Performance Evaluation and Review

The Board complied with the Legislative Auditor's office in completing its Performance Evaluation and Review process this year. The PERD report of the Board is available from the Legislative Auditor's office and has been posted online at the WV Legislature's web site.

Complaints

During the two year period of 2007-2008 there was one complaint filed with the Board regarding the unlawful practice of acupuncture without a license. The Board was informed of an unlicensed practitioner in Spencer, WV who had posted false credentials in an online format. Upon investigation the Board found that the individual named had already left the state. No further prosecution of the complaint was followed.

During the two year period of 2007-2008 there were no disciplinary actions taken on any license during this period.

During the two year period of 2007-2008 there were no Board initiated procedures against any license. The Board had no hearings or investigations regarding any license during this period.

Continuing Education

The Code requires the Board to oversee the continuing education of the licensees and to establish Codes of Ethics. The Board routinely audits the licensees to check for compliance with the continuing education requirements and professional liability coverage.

Respectfully submitted,

Linda Lyter
Executive Director

I. BOARD MEMBERS

Joe Manchin III,
Governor

Michelle DeStefano, LAc
Shepherdstown
Marian Hollinger
Morgantown
Brian Stephen Love, MD
Beckley



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~State of West Virginia~
Board of Acupuncture

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II. BOARD MEETING MINUTES

**Board of Acupuncture Regular Meeting
March 17, 2007**

First Exchange Bank
216 Fairmont Avenue
Fairmont, WV 26554

Start Time: 1:00 PM

Board Members Present:

M. J. Hollinger
B. S. Love
C. P. Negri
D. E. Samples

Board Member Absent:

M. M. DeStefano

Public Registered to Speak:

James Slaymaker, L. Ac., Morgantown

1. Call to order and Quorum count – Board members were advised that for the WV Board of Acupuncture a quorum is three people present. The meeting started at 1:00 with a call to order by C. P. Negri. D. Samples noted that a quorum was present.

Board Members were advised and reminded that WV has an open meeting law, which allows any member of the public or press to be present at any official meeting. The public or press can only observe under normal procedures. The public or press can address, question or present only with permission from the Chairman and pre-registration prior to the start of the meeting.

2. D. Samples moved and M. Hollinger seconded a motion to approve the minutes of the last meeting and review of 2006 Annual Report. These are posted on the web site. Motion carried, unanimous.

3. Regular Business of the Board was then discussed as follows:

Officers' Reports

3A. President C P Negri: Current Status and Complaint Report

C. P. Negri explained the complexities and difficulties still encountered regarding the issue of a wall certificate for licensees. The members were informed of the procedure involved in license issuance, which involves several steps. Currently, D. Samples contacts the applicant's school or college and/or

the NCAAOM to verify graduation and/or examination. The WV Code provides for five different routes of licensure, which require different procedures of verification. C. P. Negri has been interviewing the applicants, either in person or by phone.

A discussion about changes to the application procedure followed, without a motion to change the procedure. It was agreed that each member would consider what steps could be taken to improve the process. Procedure changes regarding applications were tabled until the next meeting.

C. P. Negri reported on a matter regarding a WV licensee, Paul Reinhart, on whom correspondence was initiated by the Florida Board of Acupuncture. The Florida Board notified the West Virginia Board that the applicant had withdrawn his application for licensure in Florida. On review of the Florida Board's official agenda, it was determined that the individual was not denied a license and his West Virginia license is intact and in good standing.

A discussion about the obligation of the WV Board regarding actions by other boards of acupuncture followed. The members reviewed the WV Code and the WV CSR to determine if any obligation was mandated in statute or rule. The Board found no specific instructions. It was moved by M. Hollinger and seconded by S. Love that the Board work to resolve this issue.

C. P. Negri explained that the Board has acted on one complaint during the month of January, 2007, regarding an unlicensed practitioner in Spencer, WV. The individual in question advertised in an Internet site that he was a licensed acupuncturist, but was not licensed by this Board. Investigation did not find any license in any jurisdiction surveyed. The Board attempted to contact this person by certified mail which failed due to the fact that he had moved and left no forwarding address. D.E. Samples communicated with the police authorities in the area to determine his whereabouts with no success. The Complaint Committee will continue to monitor the situation and take additional action if the person is found in WV.

A discussion about the legality of so-called "Telemedicine" or "e-commerce" and the Board's ability to regulate this activity followed. The WV Code and WV CSR were reviewed. S. Love moved and M. Hollinger seconded a motion to seek a change to the practice act to allow the Board to enforce the practice of "telemedicine."

3B. Treasurer M DeStefano: Budget Report

Due to the weather, M. DeStefano could not attend and no budget report was given. There was a discussion by the Board members concerning fixed costs for the Board. The Board will attempt to develop a list and amount for fixed costs before the next meeting. The list should include:

- Board Liability Insurance (BRIM)
- Telephone (Verizon)
- Web site
- Accounting and operations (WV Dept of Administration)

The Board was reminded that a significant portion of the Budget is set aside to cover expenses in any legal action that the Board may take against a licensee or unlicensed practitioner.

C. P. Negri presented the Board with a letter of insurance from the Board of Risk and Insurance Management (BRIM) which noted a fee increase for the next year. The Board members were informed about why the Board is insured by BRIM. The members reviewed the letter of invoice from BRIM.

It was moved by B. S. Love and seconded by M. Hollinger to accept and pay the invoice. Motion carried, unanimous.

The Board members requested a review of the web site costs for a future meeting.

3C. Secretary D E Samples: Legislative Session Update

The Board received copies of HB2380 (regarding the exemption of homeopathic drugs from consumers sales tax) and HB2526 (relating to allowing acupuncturists to form professional limited liability companies). Both bills passed the 2007 Legislative Session. The Board also received a copy of the tax code, WV Code 11-15B-2 (12-14), to explain the definitions found in HB2380.

The Board, being a division of the Executive Department, remained neutral on all legislation in the 2007 Legislative Session.

4. Old business- please refer to the minutes from the past meetings.

Telephone Directory Advertising Issue – Who can advertise under the heading of “Acupuncturist” in WV? Do we allow the WVAOM push for listing under “Muscle Therapy?”

A discussion about yellow page advertising, and advertising in general followed, and the Board’s obligation regarding the protection of the public. C. P. Negri noted that the Yellow Pages heading “Muscle Therapy” refers to massage therapists and physical therapists, but not to acupuncturists. After discussion of the relative merits of petitioning for a change to that heading, and the placing of separate ads in the Yellow Pages, he volunteered to determine the associated costs of the Board placing an advertisement in each of the major telephone directories, which would have the Board’s contact information. This will be reviewed at a future meeting.

5. New business.

5A. Licensee Audit for professional liability and continuing education;

The Board was given copies of the new proposed Audit form regarding licensee’s professional liability insurance and continuing education credits. The Audit form was prepared by D. Samples. It was explained that each licensee signs an affidavit regarding these items when renewing. The Board is obligated by its rule, 32CSR9, to audit for compliance.

It was moved to accept the form by B. S. Love and seconded by C. P. Negri. Motion carried.

5B. File Sanitization of licensee files.

The Board was given a proposed letter to be sent to the licensees regarding file sanitization of the licensee files. The proposed letter was prepared by D. Samples. During the discussion the Board was informed as to what information it must collect by code on each licensee and why such information can not be released to the public, even with a freedom of information request.

It was moved to accept the proposed letter by B. S. Love and seconded by C. P. Negri. Motion carried.

The Board was given a proposed “Confidential File” to be sent to each licensee which would be privileged information required to be on file. The “Confidential File” form was prepared by D. Samples. Once the form is returned by the licensee the information would be removed from the licensee file which is public information.

A discussion regarding changing the original application document followed. It was suggested to remove the “confidential information” from the application and attached the “confidential file” to the original application document. C. P. Negri agreed to restructure the application document for the Board.

It was moved to accept the “Confidential File” and to restructure the original application document to reflect the change by B. S. Love and seconded by C. P. Negri. Motion carried. C. P. Negri agreed to complete this process.

It was moved to create a checklist to be added to the original application document to reflect the changes in the application process by M. Hollinger and seconded by B. S. Love. Motion carried. D. Samples agreed to create the checklist update.

5C. It was brought to the Board’s attention by J. Slaymaker that the Board rule regarding continuing education credits was confusing. The Board reviewed the WV Code and the CSR regarding the language concerning CME/CEU.

The Board members were informed about the procedure for proposed legislative rules, procedural rules changes or additions to the Boards current CSR. The Board understands that any new or changed rule must have a thirty-day comment period followed by a response from the Board. New or changed rules must be submitted to the Legislative Rule Making Review Committee prior to August 1, 2007 in order to be taken up during the 2008 Legislative Session.

A discussion regarding the language of 32CSR9-7.1 and 32CSR9-7.2 followed. It was suggested that the Board correct the language to more clearly reflect the actual intent of the Board and the policy, which has been enforced for the past ten years. D. Samples agreed to speak with the Board’s attorney and have a proposed correction for the next Board meeting.

B. S. Love and M. Hollinger concurred with reviewing 32CSR6-10.2, 32CRS3-16.1 and 32CSR3-16.2 for possible changes. D. Samples agreed to speak with the Board’s attorney and have a proposed correction for the next Board meeting.

It was moved by M. Hollinger and seconded by B. S. Love that the 32CSR6-10.2; 32CRS3-16.1;

32CSR3-16.2; 32CSR9-7.1 and 32CSR9-7.2 be corrected and sent to the Legislative Review Committee for approval. Motion carried, unanimous .

5D. The Board is up for sunset review this year by the Legislative Audit Review Committee (Michael Keeney 304 347-4890 and 304 347-4939 fax) and the practice act must be re-enacted in the WV 2008 Regular Legislative Session. The practice act terminates on July 2008 without legislative re-enactment.

The Board discussed the Audit and it was explained that each member of the Board should participate. The Board will take up suggestions by the Legislative Audit Review team at its next meeting.

5E. Proposed changes to the practice act.

A discussion of any proposed changes to the practice act followed. The suggestions of the Legislative Audit Review Committee would be taken up at another meeting. A review of the WV Code was made. Several proposals were voiced regarding possible ways to strengthen the Board's ability to enforce the Code and to create a stronger method of ensuring public safety. None of these measures were prepared or associated with written proposals.

The motion was made to table any proposed changes to the Code until the Board has input from the Legislative Audit Committee by B. S. Love and seconded by M. Hollinger. Motion carried, unanimous.

6. Public comment. The Chairman opened the floor for public comment. One presenter present, James Slaymaker, L. Ac., from Morgantown. He was advised that the Board can choose to respond or take the comment under advisement to be discussed latter.

The Board members were advised that under the terms of WV Open Meeting Law, given the nature of the Board, there will be no closed sessions or secret votes.

Comment notes provided by M. Hollinger as follows:

During the public comment period of the Board meeting, James Slaymaker presented the following points for the board's consideration:

- 1) Early notification to all practitioners of the board meetings
- 2) Accurate representation of all practitioners' titles (i.e., Licensed Acupuncturist, OMD, etc.). He requested that his title designation on the licensee list be changed to L.Ac.
- 3) Question regarding CEU provider status; both payment for and offering and confirmation of taking such units.
- 4) Budgetary issues
- 5) Notification to each licensee as soon as the license has been approved
- 6) Regularization of board meetings with respect to posted dates
- 7) Question about attendance at the State training sessions for board members (especially officers)
- 8) Possibility of state inspection

- 9) Relationship of massage vis-à-vis acupuncture certifications
- 10) Requirement of jurisprudence training for licensees

The Board noted the questions but took no immediate action. The Board members recognized the value of the comments made and will investigate possible solutions, since James Slaymaker did not offer any proposed solutions to the questions raised. Proposed solutions tabled.

The Board recognizes the need for another meeting in the very near future to address the public comments and the proposed legislative rule changes.

The meeting was adjourned by C. P. Negri.

Board of Acupuncture Regular Meeting

April 28, 2007

First Exchange Bank
216 Fairmont Avenue
Fairmont, WV 26554

Start Time: 1:00 PM

Board Members Present:

M. J. Hollinger
M. M. DeStefano
B. S. Love
C. P. Negri
D. E. Samples

Registration of Public Members who wish to speak.

As per Dr. Love's suggestion and the Board's approval the public comment period was placed at the beginning of the meeting. The format chosen limited all public comment to forty-five minutes total, which was to be divided among the public speakers.

Nicholas Dudley, OMD, Charleston

James Slaymaker, LAc, Morgantown spoke on the following items:

1. Confirming his request updating his address on the Board web site as:

James Patrick Slaymaker, LAc
1224 Pineview Drive, Suite C
Morgantown, WV 26505
jim@acupuncture2heal.com

The Board web site has been notified and correction is in process.

2. Confirming his request that his company, "Acupuncture2Heal LLC," as a Board approved CEU provider. Confirming his request that he personally, "James Patrick Slaymaker, LAc," as a Board approved instructor.

Discussion between Mr. Slaymaker and Dr. Negri centered upon completing the Board form for providers. Dr. Negri agreed to forward the form and application to Mr. Slaymaker. Mr. Slaymaker paid the annual Board fee of \$50.00 to Michelle DeStefano pending completion of the application.

The six proposed CEU courses were:

- A. Legislative Law for Massage Therapy and Acupuncture in WV (four parts)
- B. Professional Ethics and Conduct for Massage Therapy and Acupuncture (four parts)
- C. Conducting Effective Board Meetings (two parts)

- D. Practice Management for Massage Therapy and Acupuncture (four parts)
- E. MetaPhysical Theories Related to Massage Therapy and Acupuncture (four parts)
- F. Oriental Medicine Theory for Pregnancy and Childbirth (four parts)

The Board questioned Mr. Slaymaker regarding his proposed classes and requested additional information and specifics in his proposal. He agreed to expand his submitted information to be more reflective of the nature of what he was going to present. M. DeStefano and M. Hollinger requested more detail on the outline. S. Love requested copies of the course syllabus and handouts. Mr. Slaymaker agreed to send the information by mail to the Board members prior to the June 16th meeting.

Four of the six proposed classes were focused upon both licensed massage therapists as well as acupuncturists. Mr. Slaymaker was informed that Board of Acupuncture approval would not carry CEU credit for licensed massage therapists and that he would have to apply with the Board of Massage Therapy in addition to his application with the Board of Acupuncture.

- 3. Requesting clarification of “Acupuncture Tutorial” as defined in 32CRS12 and in WV Code 30-36-1 et seq.

The definition was found in 32CRS12.

- 4. Requesting clarification of “Acupuncture Apprenticeship” as provided in WV Code 30-36-1 et seq. and information regarding previous Board approved apprenticeships.

The definition was found in 32CRS12. Mr. Slaymaker was informed that several apprenticeships had been previously approved and several licensees entered by this method as approved in WV Code 30-36-1 et seq.

- 5. Requesting definition, procedures and status of any and all “Preceptorship Providers and Preceptors” specifically regarding the monetary and remuneration aspects.

The Board explained that it does not control whether the student pays the preceptor for instruction or whether the student is paid for their work. That is a private matter of contract between the parties and the Board is not involved.

- 6. Requesting the name of attorneys for the Board as consulted by Dr. Samples regarding the Board.

As per WV Code Chapters 29A-5-1, 30-1-1, and 30-36-1 et seq. the attorney for the Board is the WV Attorney General, Darrell V. McGraw. The actual letters from the Legislative Auditors and the Legislative Services were included in the handouts for the meeting. The WV Attorney General’s office invoked “Attorney-client” privilege and those letters were not included in the handouts.

- 7. Requesting clarification of the Governor’s appointments of the current Board.

- 8. Requesting recording of the meetings.

The Board informed Mr. Slaymaker that recordings will not be made available on line or otherwise and took no action.

Meeting

1. Call to order and Quorum count – all members present
2. Approval of the minutes of the March 17th meeting as posted on the Board web page and presented:
Moved by M. Hollinger
Seconded by M. DeStefano
Passed on voice vote, unanimous.

Regular Business:

Officers Reports

President C P Negri: Current Status

Dr. Negri reported that there was no change since the March 17th meeting.

Treasurer M de Stephano: Budget Report

Budget was received in the mail just prior to the start of the meeting and had not been reviewed or studied. Due to prior review, the Budget Report was tabled to the next meeting, June 16th, 2007.

The Board will continue its discussion on the subject of “Fixed Costs.” Linda Lyter has forwarded copies of the Board Budget which will be reviewed at the June 16th meeting.

Areas covered at the March 17, 2007 meeting included:

Board Liability Insurance (BRIM)

Telephone (Verizon)

Web site

Accounting and Operations (WV Dept of Administration)

Attorney fees (WV Attorney General)

Secretary D E Samples:

Board inspections of facilities and licensees. Dr. Samples presented the findings of the attorneys for Legislative Services and Legislative Auditors regarding the Board’s authority to conduct acupuncture facility inspections for the Board’s review. The Board has full authority under the Code as currently defined to conduct onsite inspections.

The Board reviewed the proposed “Inspection Worksheet.” Corrections and modifications were made to the form:

Moved by S. Love

Seconded by M. Hollinger

Passed on voice vote, unanimous.

3. Old business- refers to the minutes from the meeting of March 17th.

Proposed clarification changes to 32CRS9-7. The request for proposed clarification was carried at the March 17th meeting. The proposed changes must be approved by the Board prior to releasing for public comment period. This is a Legislative Rule. The changes must be approved in the 2008 Legislative session in order to become effective.

The Board reviewed the proposed language changes as presented by Dr. Samples. The Board will put the proposed changes out for public comment period, to end on June 12th. The Board will post the proposed changes on its web site in addition to it being posted on the WV Secretary of State's web site.

Moved by S. Love
Seconded by M. Hollinger
Passed on voice vote, unanimous.

4. New business.

Continuing Education Provider – Application for Renewal from the National Board of Oriental Medical Family Practice, Little Rock, Arkansas. This application and the documentation was reviewed.

Presented by Dr. Negri. The Board had no questions and the application was renewed on unanimous vote.

New Legislative Rule – 32 CRS 7 Disciplinary and Complaint Procedures for Acupuncturists. This Legislative Rule will establish the outline of disciplinary and complaint procedures for the Board. This rule establishes infractions for which a licensee can be denied licensure, suspended from licensure, placed on probation, censured or fined. The rule protects the patient and the interests of State of West Virginia.

The Board reviewed the proposed new legislative rule as presented by Dr. Samples. The Board will put the proposed new legislative rule out for public comment period, to end on June 12th. The Board will post the proposed changes on its web site in addition to it being posted on the WV Secretary of State's web site.

Moved by C. P. Negri
Seconded by S. Love
Passed on voice vote, unanimous.

New Procedural Rule – 32 CRS 8 Contested Case Hearing Procedure. This Procedural Rule will establish the outline for procedures for the adjudication of contested case hearing before the Board.

This rule establishes the methods for handling contested decisions of the Board in order to protect the rights of the individual licensee.

The Board reviewed the proposed new legislative rule as presented by Dr. Samples. The Board will put the proposed new legislative rule out for public comment period, to end on June 12th. The Board will post the proposed changes on its web site in addition to it being posted on the WV Secretary of State's web site.

Moved by M. Hollinger

Seconded by S. Love

Passed on voice vote, unanimous.

5. Additional Business

The Board was advised by S. Love that email addresses for the Board might be available through WVNet. General agreement was given to pursue learning more information about the process of obtaining email addresses for the Board members which would reflect their association with the State of WV. Information will be presented at the next meeting on June 16th.

The meeting was adjourned by C. P. Negri.

**Minutes of the Regular Board Meeting
June 16, 2007**

First Exchange Bank
216 Fairmont Avenue
Fairmont, W. Va. 26554

Start Time: 1:00 PM

Board Members Present:

M. M. DeStefano
M. J. Hollinger
C. P. Negri
D. E. Samples

Board Members Absent:

B. S. Love

Registration of Public Members who wish to speak.

Public members registered to speak

Michelle DeStefano
James Patrick Slaymaker

The Board continued the previously adopted policy of receiving public comments prior to the meeting. Items presented in the public forum will be considered by the Board without any obligation upon the Board to act at the time of presentation.

Board Members are advised that W. Va. has an open meeting law that allows any member of the public or press to be present at any official meeting. The public or press can only observe under normal procedures. The public or press can address, question or present only with permission from the Chairman. Copy of the W. Va. Open Meeting Act was included for review.

There will be no time allotted for public comment period after the formal Board session.

Michelle DeStefano requested time to speak as a member of the public and as a professional licensee. She stated that her comments reflected a conversation between Tammy McGraff, a licensee, and her. The focus of M. DeStefano's comments regarded protection of alternant traditions within the acupuncture profession and the Board's position in protecting those traditions.

Discussion by the Board focused upon the provisions in the practice act that allow for the practice of all Oriental medical therapies, WV Code 30-36-2(a)(5). It is not the Board's policy to interfere with the acupuncture physician/patient relationship in choosing the correct treatment plan, however

practitioners are encouraged to use all available methods to provide the best possible therapy.

James Slaymaker requested time to speak as a member of the public and as a professional licensee. He presented a handout to the Board of specific questions.

Question: Regarding announcement of meetings as required by the open meeting act.

Answer: The meeting was posted in the State Register with the Secretary of State, on the Board's web site and with the WV Association of Oriental Medicine's membership forum (online), each placed thirty days prior to the meeting. Complies with WV Code.

Question: Regarding Board policy and procedures regarding Acupuncture Tutorials, Apprenticeships and Preceptorships.

Answer: There have been no changes or request for changes to the WV CSR regarding these three areas (32CSR12).

Question: Regarding the Board recording meetings and creation of "Approved Minutes."

Answer: The Board has no plans to alter the current method.

Question: Regarding software used in the creation of Title 32CSR and noting typographical errors found in 32CSR7, 32CSR8 and 32CSR9.

Answer: All legislative and procedural rules must be written and published in WordPerfect. The typographical errors were already addressed.

Question: Regarding receipt of Provider Certificate, AP-96-005.

Answer: The Board mailed said certificate with his letter, which he did receive.

Question: Proposed posting of approved providers list online, on the Boards web site.

Answer: To be taken under consideration.

Meeting:

1. Call to order and Quorum count – Board members are advised that for the WV Board of Acupuncture, a quorum is three people present. The meeting started at the convened time once a quorum was noted by the Chairman.

2. Approval of the minutes of the April 28th meeting. These were posted on the web site after the last meeting. Formal vote of approval of the current minutes as follows:

Moved by C. P Negri

Seconded by M. Hollinger

Carried by voice vote, unanimous.

Regular Business:

Officers Reports

President C P Negri: Current Status – no investigations, no complaints filed

Treasurer M DeStefano: Budget Report – without change to filed budget

Secretary D E Samples: Review of letter from the Attorney General regarding Inspection of Offices

3. Old business- from the minutes from the past meetings.

3.a. Proposed clarification changes to 32CRS9. The proposed clarification language changes were carried at the April 28th meeting. The proposed changes were put forth for 45 day public comment period, posted to the W. Va. Secretary of State for publication in the State Register. In addition, the proposed changes were posted on the Board's web site and published on the WVAOM web list.

There were no comments made during the public comment period.

This is a Legislative Rule requiring final Board approval.

Moved by M. Hollinger

Seconded by C. P. Negri

Carried on voice vote, unanimous.

The agency approved rule now goes to the W. Va. Legislative Rule Making Review Committee, an Interim Joint Legislative Committee. This committee will have a public hearing, which a Board member must attend to answer questions about the rule.

Board Secretary D. Samples was selected to represent the Board.

The W. Va. LRMRC will then make suggestions for changes, if any, and will recommend for passage or not for passage. Either way, the rule still goes before the 2008 legislative session, if the Board wishes. The rule must then be approved in the 2008 Legislative session and signed by the Governor in order to become effective.

3.b. New Legislative Rule – 32CRS7 Disciplinary and Complaint Procedures for Acupuncturists. This Legislative Rule will establish the outline of disciplinary and complaint procedures for the Board. This rule establishes infractions for which a licensee can be denied licensure, suspended from licensure, placed on probation, censured or fined. The rule protects the patient and the interests of State of West Virginia.

The proposed new rule, 32CRS7 Disciplinary and Complaint Procedures for Acupuncturists, was carried at the April 28th meeting. The proposed rule was put forth for 45-day public comment period, posted to the W. Va. Secretary of State for publication in the State Register. In addition, the proposed new rule was posted on the Board's web site and published on the WVAOM web list.

There were no comments made during the public comment period.

This is a Legislative Rule requiring final Board approval.

Moved by C. P. Negri

Seconded by M. DeStefano

Carried on voice vote, unanimous.

The agency-approved rule now goes to the W. Va. Legislative Rule Making Review Committee, an Interim Joint Legislative Committee. This committee will have a public hearing, which a Board member must attend to answer questions about the rule.

Board Secretary D. Samples was selected to represent the Board.

The W. Va. LRMRC will then make suggestions for changes, if any, and will recommend for passage or not for passage. Either way, the rule still goes before the 2008 legislative session, if the Board wishes. The rule must then be approved in the 2008 Legislative session and signed by the Governor in order to become effective.

3.c. New Procedural Rule – 32CRS8 Contested Case Hearing Procedure. This Procedural Rule will establish the outline for procedures for the adjudication of contested case hearing before the Board. This rule establishes the methods for handling contested decisions of the Board in order to protect the rights of the individual licensee.

The proposed new rule, 32CRS8 Contested Case Hearing Procedure, was carried at the April 28th meeting. The proposed rule was put forth for 45-day public comment period, posted to the W. Va. Secretary of State for publication in the State Register. In addition, the proposed new rule was posted on the Board's web site and published on the WVAOM web list.

There were no comments made during the public comment period.

This is a Legislative Rule requiring final Board approval.

Moved by C. P. Negri

Seconded by M. DeStefano

Carried on voice vote, unanimous.

This is a procedural rule that does not require a W. Va. Legislative Rule Making Review Committee hearing or vote. The agency-approved rule will be filed with the Legislature and the W. Va. Secretary of States office. It will become effective 30 days after final filing of the rule. No further action will be associated with this rule.

3.d. Continuing Education Provider – James Slaymaker, L. Ac. (Acupuncture2Heal LLC)

Mr. Slaymaker has six proposed CEU courses before the Board at this time:

- A. Legislative Law for Massage Therapy and Acupuncture in WV (four parts)
- B. Professional Ethics and Conduct for Massage Therapy and Acupuncture (four parts)
- C. Conducting Effective Board Meetings (two parts)
- D. Practice Management for Massage Therapy and Acupuncture (four parts)
- E. Metaphysical Theories Related to Massage Therapy and Acupuncture (four parts)
- F. Oriental Medicine Theory for Pregnancy and Childbirth (four parts)

Mr. Slaymaker requested removal of these items from the Board's agenda during the meeting. The Board granted his request.

No further action will be taken on this matter.

4. New business.

FAOMRA Membership Renewal – Federation of Acupuncture & Oriental Medicine Regulatory Agencies

The Board reviewed the Bylaws of this agency. In the past Jeffery Worth, OMD, RN and Dr. Samples have represented the State of West Virginia on this agency.

Board Chairman C. P. Negri suggested that membership on FAOMRA is worth the Board's investment.

Moved by C. P. Negri
Seconded by M. DeStefano
Carried by voice vote, unanimous.

The Board asked Dr. Samples to continue as the West Virginia delegate from the Board with M. DeStefano being the alternate. This will provide continuity and allow Michelle to begin to work with other Boards throughout the country and learn more about the profession from a national viewpoint.

D. Samples proposed to authorize use of Board funds for attendance and travel expenses to the FAOMRA meetings for the delegate and alternate.

Moved by M Hollinger
Seconded by C. P. Negri
Carried by voice vote, unanimous.

This concluded the Board meeting, Adjourned by C. P. Negri with unanimous consent.

*** The Board did not have any scheduled board meetings for the fiscal year 2008 therefore there are no meeting minutes for this fiscal year.**

IV Financial Report

**WEST VIRGINIA BOARD OF ACUPUNCTURE
FISCAL YEAR 2007 EXPENDITURES AND RECEIPTS**

Disbursements

001	Payroll	\$0.00	
002	Per Diem	\$0.00	
004	Annual Increment	\$0.00	
010	Personnel fee	\$0.00	
011	Social Security Matching	\$0.00	
012	PEIA Insurance	\$0.00	
014	Workers Compensation	\$0.00	
015	Unemployment Compensation	\$0.00	
016	PERS Retirement Contribution	\$0.00	
020	Office Supplies	\$0.00	
021	Printing	\$0.00	
022	Rental	\$0.00	
023	Utilities	\$0.00	
024	Telecommunications	\$289.94	
025	Professional Services	\$1,318.75	
026	Travel	\$897.84	
027	Computer Services	\$601.64	
030	Equipment Rental	\$0.00	
031	Membership Dues	\$0.00	
032	BRIM Insurance Premium	\$2,229.00	
035	Advertisement / Promotions	\$0.00	
038	Equipment Maintenance	\$0.00	
041	Cellular Phone	\$0.00	
042	Hospitality	\$0.00	
051	Miscellaneous	\$0.00	
052	Training / Development	\$170.00	
053	Postage	\$0.00	
054	Computer Supplies	\$0.00	
110	PEIA Reserve	\$0.00	
160	RHBT Retiree Health Benefit	\$0.00	
TOTAL		\$5,507.17	
7/1/2007 Cash Balance			\$30,562.07
2007 Gross Revenue			\$14,200.00
Revenue Refunds			\$0.00
2007 Expenditures			\$5,507.17
7/31/2007 Cash Balance			\$30,562.07
Annual Spending Authority for FY 2007		\$17,858.00	

**WEST VIRGINIA BOARD OF ACUPUNCTURE
FISCAL YEAR 2008 EXPENDITURES AND RECEIPTS**

Disbursements

001	Payroll	\$833.33
002	Per Diem	\$2,550.00
004	Annual Increment	\$0.00
010	Personnel fee	\$0.00
011	Social Security Matching	\$195.09
012	PEIA Insurance	\$0.00
014	Workers Compensation	\$0.00
015	Unemployment Compensation	\$0.00
016	PERS Retirement Contribution	\$0.00
020	Office Supplies	\$0.00
021	Printing	\$0.00
022	Rental	\$138.25
023	Utilities	\$0.00
024	Telecommunications	\$204.98
025	Professional Services	\$168.00
026	Travel	\$708.10
027	Computer Services	\$820.60
030	Equipment Rental	\$0.00
031	Membership Dues	\$1,000.00
032	BRIM Insurance Premium	\$3,528.00
035	Advertisement / Promotions	\$0.00
038	Equipment Maintenance	\$0.00
041	Cellular Phone	\$0.00
042	Hospitality	\$0.00
051	Miscellaneous	\$0.00
052	Training / Development	
053	Postage	\$0.00
054	Computer Supplies	\$2,160.95
110	PEIA Reserve	\$0.00
160	RHBT Retiree Health Benefit	\$0.00
TOTAL		<u>\$12,307.30</u>

7/1/2008 Cash Balance	\$22,254.77
2008 Gross Revenue	\$4,000.00
Revenue Refunds	\$0.00
2008 Expenditures	\$12,307.30
7/31/2008 Cash Balance	\$22,036.75

Annual Spending Authority for FY 2008 **\$17,858.00**

V. Summary of Complaints and Investigations

The Board investigated one complaint in 2007, regarding an unlicensed practitioner in Spencer, WV, Roane County. The complaint regarding this individual was investigated, and the Board found that the individual had moved out of the state making him no longer a threat to the health of the citizens of West Virginia. The Board closed the case without a hearing.

During the past two years, this was the only complaint filed.

**VI. New/Proposed Rule
Changes
Consolidated State Rules**

Title 32
Legislative Rule
Board of Acupuncture

Series 7
Disciplinary Actions

32-7-1. General.

1.1. Scope. -- This rule establishes the due process procedure for disciplinary and complaint procedures for the Board. The Board is charged with these duties in W. Va. Code § 30-36-18.

1.2. Authority. -- W. Va. Code § § 30-1-8(a) and 30-36-1 et seq.;

1.3. Filing Date. --

1.4. Effective Date. --

32-7-2. Application and Enforcement.

This legislative rule applies to all licensed acupuncturists, student acupuncturists, and acupuncture trainees.

32-7-3. Definitions.

3.1. "Board" means the West Virginia Board of Acupuncture.

3.2. "Licensee" means an acupuncturist who holds a license issued by the Board to practice acupuncture and oriental medicine.

3.3. "License" means a license issued by the Board.

3.4. "Practice of acupuncture and oriental medicine" means the practice of acupuncture as defined in W. Va. Code § 30-36-2 and includes licensed acupuncturists, student acupuncturists and acupuncture trainees.

3.5. "False and deceptive advertising" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material

facts, is intended or is likely to create false or unjustified expectations of favorable results or includes representations or implications that in a reasonable probability will cause an ordinary prudent person to misunderstand or be deceived.

3.6. "Adjudicatory hearing" means a formal administrative hearing before the Board or a designated hearing examiner, conducted to determine the truth and validity of complaints filed against a licensee.

3.7. "Crimes involving moral turpitude" means those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud or misrepresentation.

3.8. "Probation" means imposing conditions and requirements upon a licensee for a period of time that the Board determines to be justified under any provision of law.

32-7-4. Causes for Denial, Probation, Limitation, Discipline, Suspension or Revocation of Licenses of Acupuncturists.

4.1. The Board may deny an application for license, place a licensee on probation, suspend a license, limit or restrict a licensee or revoke any license issued by the Board, upon satisfactory proof that the licensee has:

4.1.1. Knowingly made, or presented or caused to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other material in connection with an application for a license;

4.1.2. Been or is involved in

fraud, forgery, deception, collusion or conspiracy in connection with an examination for a license;

4.1.3. Become addicted to a controlled substance;

4.1.4. Become a chronic or persistent alcoholic;

4.1.5. Engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or member of the public;

4.1.6. Willfully violated a confidential communication;

4.1.7. Had his or her license to practice acupuncture or oriental medicine in any other state, territory, jurisdiction or foreign nation revoked, suspended, restricted or limited, or otherwise acted against, or has been subjected to any other disciplinary action by the licensing authority thereof, or has been denied licensure in any other state, territory, jurisdiction, or foreign nation;

4.1.8. Been or is unable to practice acupuncture or oriental medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals or any other type of material, or by any reason of any physical or mental abnormality;

4.1.9. Demonstrated a lack of professional competence to practice acupuncture or oriental medicine with a reasonable degree of skill and safety for patients. In this connection, the Board may consider repeated acts of an acupuncturist indicating his or her failure to properly treat a patient and may require the acupuncturist to submit to inquiries or examinations, written or oral, by members of the Board, by its agent, or designee, as the Board considers necessary to determine the professional qualifications of the licensee;

4.1.10. Engaged in

unprofessional conduct, including, but not limited to, any departure from, or failure to conform to, the standards of acceptable and prevailing oriental medical practice, or the ethics of the oriental medical profession, or unprofessional conduct as presented in the Board's rule, Code of Ethics for Licensed Acupuncturist, 32CSR10 of the Boards Rules, irrespective of whether a patient is injured by the conduct, or has committed any act contrary to honesty, justice or good morals, whether the act is committed in the course of his or her practice or otherwise and whether committed within or without this State;

4.1.11. Been convicted of or found guilty of a crime in any jurisdiction which directly relates to the practice of acupuncture or oriental medicine or to the ability to practice acupuncture or oriental medicine. A plea of nolo contendere will be considered conviction for the purposes of this rule;

4.1.12. Advertised, practiced or attempted to practice under a name other than his or her own;

4.1.13. Failed to report to the Board any person whom the licensee knows is in violation of this rule or of provisions of the West Virginia Acupuncture Practice Act;

4.1.14. Aided, assisted, procured or advised any unlicensed person to practice oriental medicine contrary to this rule or the West Virginia Acupuncture Practice Act;

4.1.15. Failed to perform any statutory or legal obligation placed upon an acupuncturist;

4.1.16. Made or filed a report which the licensee knows to be false, intentionally or negligently failed to file a report or record required by state or federal law, willfully impeded or obstructed the filing or induced another person to do so. The reports or records will include only those which are signed in the capacity as a licensed acupuncturist;

4.1.17. Paid or received any

commission, bonus, kickback or rebate, or engaged in any split-fee arrangement in any form whatsoever with an acupuncturist, organization, agency or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers or pharmacies. The provisions of this subdivision will not be construed to prevent an acupuncturist from receiving a fee for professional consultation service;

4.1.18. Exercised influence within a patient-practitioner relationship for purposes of engaging a patient in sexual activity;

4.1.19. Made deceptive, untrue or fraudulent representations in the practice of oriental medicine or employed a trick or scheme in the practice of oriental medicine when the trick or scheme fails to conform to the generally prevailing standards of treatment in the oriental medical community;

4.1.20. Solicited patients, either personally or through an agent, through use of fraud, intimidation, undue influence, or by overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate response from the recipient;

4.1.21. Failed to keep written records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results and test results and treatment rendered, if any;

4.1.22. Exercised influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or of a third party, which includes, but not be limited to, the promoting or selling of services, goods, appliances or materia medica and the promotion or advertising on any prescription form of a pharmacy. For the purposes of this subdivision, prescribing, dispensing, administering, mixing or otherwise preparing materia medica, including all

controlled and non-controlled substances, inappropriately or in excessive or inappropriate quantities, is not in the best interests of the patient and is not in the course of the acupuncturist or oriental medical practitioners professional practice, without regard to his or her intent;

4.1.23. Engaged in malpractice or failed to practice acupuncture or oriental medicine with that level of care, skill and treatment which are recognized by a reasonable, prudent, acupuncturist or an oriental medical practitioner engaged in the same or similar specialty as being acceptable under similar conditions and circumstances;

4.1.24. Performed any procedure or prescribed any therapy which, by the prevailing standards of oriental medical practice in the community, would constitute experimentation on a human subject, without first obtaining full, informed and written consent from the patient;

4.1.25. Practiced or offered to practice acupuncture beyond the scope permitted by the West Virginia Acupuncture Practice Act or accepted and performed professional responsibilities which the licensee knows or has reason to know he or she is not competent to perform;

4.1.26. Delegated professional responsibilities to a person whom the licensee knew or had reason to know was not qualified by training, experience or licensure to perform the responsibilities;

4.1.27. Violated or attempted to violate any law or rule of any jurisdiction, which relates to the practice of acupuncture.

4.1.28. Violated or failed to comply with a lawful order of the Board, or has violated an order of any court entered pursuant to any proceedings commenced by the Board;

4.1.29. Offered, undertaken or agreed to cure or treat disease by a secret

method, procedure, treatment or medicine; or has treated for any human condition, by a method, means, or procedure which the licensee has refused to divulge upon demand of the Board;

4.1.30. Engaged in false or deceptive advertising. "False or Deceptive Advertising" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results or includes representations or implications that in reasonable probability will cause an ordinary prudent person to misunderstand or be deceived; or

4.1.31. Engaged in advertising that is not in the public interest. Advertising that is not in the public interest includes the following:

4.1.31.a. Advertising that has the effect of intimidating or exerting undue pressure;

4.1.31.b. Advertising that uses testimonials;

4.1.31.c. Advertising which is false, deceptive, misleading, sensational or flamboyant;

4.1.31.d. Advertising which guarantees satisfaction or a cure;

4.1.31.e. Advertising which offers gratuitous services or discounts, the purpose of which is to deceive the public. This paragraph does not apply to advertising which contains an offer to negotiate fees, nor to advertising in conjunction with an established policy or program of free care for patients; and

4.1.31.f. Advertising which make claims of professional superiority which a licensee is unable to substantiate.

4.2. For the purposes of Section 4.1., acts declared to constitute dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof includes, but is not limited to;

4.2.1. Prescribing or dispensing any "Controlled Substance" as defined in the W. Va. Code § 60A-1-101(d);

4.2.2. Issuing or publishing in any manner whatsoever, representations in which grossly improbable or extravagant statements are made which have a tendency to deceive or defraud the public, or a member thereof, including, but not limited to:

4.2.2.a. Any representation in which the licensee claims that he or she is able to cure or treat manifestly incurable diseases, ailments or infirmities by any method, procedure, treatment or medicine which the licensee knows or has reason to know has little or no therapeutic value;

4.2.2.b. Represents or professes or holds himself or herself out as being able and willing to treat diseases, ailments or infirmities under a system or school of practice, except:

4.2.2.b.1. for which he or she holds a degree or diploma from a school otherwise recognized by the Board, or

4.2.2.b.2. Which he or she professes to be self-taught or self-developed.

4.2.3. A serious act, or a pattern of acts committed during the course of an acupuncture practice which, under the attendant circumstances, would be considered to be gross incompetence, gross ignorance, gross negligence or malpractice, including the performance of any unnecessary service or procedure;

4.2.4. Conduct which is calculated to bring or has the effect of bringing

the acupuncture or oriental medical profession into disrepute, including, but not limited to, any departure from or failure to conform to the standards of acceptable and prevailing oriental medical practice within the State;

4.2.5. Any charges or fees for any type of service rendered within forty-eight (48) hours of the initial visit, if the licensee advertises free service, free examination or free treatment;

4.2.6. Failing to meet the standard of practice in connection with any supervisory and/or collaborative agreement with any category of health practitioner licensed under Chapter 30 of the W. Va. Code;

4.2.7. Charging or collecting an excessive or unconscionable fee. Factors to be considered as guides in determining the reasonableness of a fee include the following:

7.1. The time and effort required;

7.2. The novelty and difficulty of the procedure or treatment;

7.3. The skill required to perform the procedure or treatment properly;

7.4. Any requirements or conditions imposed by the patient or circumstances;

7.5. The nature and length of the professional relationship with the patient;

7.6. The experience, reputation, and ability of the licensee; and

7.7. The nature of the circumstances under which the services are provided.

4.2.8. In any case where it is found that an excessive, unconscionable fee has

been charged, in addition to any actions taken under the provisions of section 4.3 of this rule, the Board may require the licensee to reduce or pay back the fee.

4.3. When the Board finds that any applicant is unqualified to be granted a license or finds that any licensee should be disciplined pursuant to the West Virginia Acupuncture Practice Act or rules of the Board, the Board may take anyone or more of the following actions:

4.3.1. Refuse to grant a license to an applicant;

4.3.2. Administer a public reprimand;

4.3.3. Suspend, limit or restrict any license for a definite period, not to exceed five (5) years;

4.3.4. Require any licensee to participate in a program of education prescribed by the Board;

4.3.5. Revoke any license;

4.3.6. Require the licensee to submit to care, counseling or treatment by physicians or other professional persons;

4.3.7. Require him or her to practice under the direction or supervision of another practitioner; or

4.3.8. Require the licensee to provide a period of free public or charitable service.

4.3.9. In addition to and in conjunction with these actions, the Board may make a finding adverse to the licensee or applicant, but withhold imposition of judgment and penalty, or it may impose the judgment and penalty but suspend enforcement of the penalty and place the acupuncturist on probation, which may be vacated upon the noncompliance with any terms imposed by the Board. In its

discretion, the Board may restore and reissue a license under the West Virginia Acupuncture Practice Act, W. Va. Code § 30-36-1 et. seq. , and as a condition it may impose any disciplinary or corrective measure provided for in this Rule or in the West Virginia Acupuncture Practice Act.

4.4. The Board has the authority to place a licensee in a probationary status and to apply varying conditions upon the licensee during the probationary period. Upon reaching the conclusion that a licensee to practice acupuncture should be placed on probation, the Board may impose anyone or more of the following conditions:

4.4.1. The Board may appoint one or more Board members to be responsible for having the probationary licensee report for interviews on a regular basis. These interviews may be set up on a periodic basis as determined by the Board and the appointed Board members will then report back to the Board at its regularly scheduled meeting on the progress of the licensee;

4.4.2. The Board may request the probationary licensee to appear before the Board at intervals determined by the Board order that the licensee may report on his or her progress. During these appearances by the probationary licensee, the Board may ask the probationary licensee questions so as to observe his or her behavior and progress;

4.4.3. The Board may select a physician or request the probationary licensee to select a physician who will be approved by the Board and the physician shall submit periodic progress reports on the probationary licensee as directed by Board;

4.4.4. The Board may appoint a medical consultant whose responsibility is to conduct interviews with the probationary licensee. The probationary licensee shall then report to the appointed medical consultant on a regular basis as determined by the Board, and

the medical consultant shall report to the Board at intervals determined by the Board;

4.4.5. In cases of alcoholism and/or drug abuse, as a condition of probation, the Board may require that the probationary licensee submit periodic blood samples and/or urine drug screen samples;

4.4.6. The Board may require that the probationary licensee authorize his or her personal physician to submit to the Board, for review, the probationary licensee's medical history, both as to past medical history and any and all new medical history as may become available to the personal physician during the period of the probationary term;

4.4.7. The Board may require that the probationary licensee report all medications that he or she may be utilizing and that he or she make the reports to the Board, at intervals as directed by the Board from time to time;

4.4.8. The Board may require that prior to the termination of a probationary term, the probationary licensee appear at a regularly scheduled Board meeting and furnish the Board with information as it may request, and the Board may utilize subpoenas, subpoenas duces tecum and its investigators as it considers necessary to gather facts and evidence to determine compliance by the probationary licensee with the terms of probation; and

4.4.9. In those situations where indicated, the Board may impose additional terms of probation, restriction, or revocation upon a licensee who has initially been placed on probation. The period of probation shall not exceed five (5) years from its initiation date.

32-7-5. Required Reports from Hospitals, Professional Societies, Insurers and Courts.

5.1. Any person, medical peer review committee, firm, corporation, members

of the Board or public officer may make a complaint to the Board which charges an acupuncturist with a violation of the W. Va. Code § 30-36-1 et seq., or of the Rules of the Board. The Board may provide a form for that purpose, but a complaint may be filed in any written form. In addition to describing the alleged violation which prompted the complaint, the complaint should contain the following:

5.1.1. The name and address of the individual against whom the complaint is lodged;

5.1.2. The date of care or other incident;

5.1.3. The name of individual who may have treated the patient after the alleged incident; and

5.1.4. The name of any health care institution in which the patient was an inpatient or outpatient after or during the alleged incident.

5.2. The Board may prepare forms for filing complaints and make them available upon request.

5.3.. Any information regarding a complaint shall be sent by the Board to the practitioner concerned for his or her written comment and he or she will submit a written reply within twenty (20) days, or waive the right to do so.

32-7-6. Appeal

6.1. Any applicant for a license who has had his or her application denied by order of the Board may appeal the order within thirty (30) days of that action, in accordance with the contested case hearing procedure, W. Va. Code § 29A-5-1 et seq., and rules of the Board: Provided, That the appeal shall not include cases in which the Board denies a license or certificate after an examination to test the knowledge or the ability of the applicant where the controversy concerns whether the examination

was fair or whether the applicant passed the examination.

6.2 Any licensee practicing acupuncture and oriental medicine in this State, who has had his or her license denied, suspended, restricted, or revoked by order of the Board, may appeal the order within thirty (30) days of this action in accordance with the contested case hearing procedure, W. Va. Code § 29A-5-1 et seq., and the rules of the Board

**TITLE 32
PROCEDURAL RULE
BOARD OF ACUPUNCTURE**

**SERIES 8
CONTESTED CASE HEARING PROCEDURE**

§32-8-1. General.

1.1. Scope. -- This rule establishes procedures for the adjudication of contested case hearings before the Board.

1.2. Authority. -- W. Va. Code §§30-36-1 et seq., 30-1-1 et seq. and 29A-5-1 et seq.

1.3. Filing Date. --

1.4. Effective Date. --

§32-8-2. Definitions.

The following words and phrases as used in these rules shall have the following meanings, unless the context otherwise requires:

2.1. "Board" means the West Virginia Board of Acupuncture.

2.2. The term "demanding party" means an individual who has been denied a license to practice acupuncture and oriental medicine by the Board and who, as a result, demands that a hearing be held before the Board on the issue of such denial.

2.3. The term "charged party" means an individual who holds a license to practice acupuncture and oriental medicine issued by the Board and who has been charged by the Board as described in subsection 3.4 of this rule.

2.4. The term "licensee" means an acupuncturist who holds a license issued by the Board to practice acupuncture and oriental medicine or a "trainee" who holds an educational

training permit.

2.5. The term "license" means a license issued by the Board pursuant to W. Va. Code §30-36-1 et seq.

2.6. "Practice of acupuncture and oriental medicine" means the practice of acupuncture and oriental medicine as defined in W. Va. Code §30-36-1 et seq. and includes licensed acupuncturists, student acupuncturists and acupuncture trainees.

§32-8-3. Hearing Procedures.

3.1. Any person denied a license or who has had their license/training permit suspended, restricted, or revoked by order of the Board and who believes such order was in violation of W. Va. Code §§30-1-1 et seq. and/or 30-36-1 et seq. shall be entitled to a hearing on the action.

3.2. Any person who desires a hearing for the reason described in subsection 3.1 of this section must present a written demand for such to the Board.

3.3. When the president of the Board or his or her authorized designee is presented with such a demand for a hearing, he or she shall schedule a hearing within forty-five (45) days of receipt by him or her of such written demand, unless postponed to a later date by mutual agreement.

3.4. Charges may be instituted against any licensed acupuncturist, student acupuncturist and acupuncture trainee by the Board when reasonable cause exists for believing that he or

she may have engaged in conduct or be in such condition that his or her license should be suspended, revoked or otherwise disciplined for one or more of the grounds set forth in W. Va. Code §30-36-1 et seq. or the Board's legislative rules. Charges may be based upon information received by way of a verified written complaint filed with the Board and further information gathered by the Board in the process of investigating such complaint. Charges may also be based upon information received solely through investigative activities undertaken by the Board.

3.5. Charges instituted against a licensee or trainee as described in subsection 3.4 of this section shall be set forth in a Complaint and Notice of Hearing issued in the name of the Board as the agency of the State regulating the practice of acupuncture and oriental medicine. Such Complaint and Notice of Hearing shall designate the Board as the "Complainant," and shall designate the licensed acupuncturist, student acupuncturist and acupuncture trainee involved in the proceeding as the "Respondent"; shall set out the substance of each offense charged with sufficient particularity to reasonably apprise the Respondent of the nature, time and place of the conduct or condition complained of therein; shall state the date, time and place for the hearing; and, shall contain a statement of intention by the Board to appoint a hearing examiner.

3.6. Upon receipt of a demand for a hearing described in subsection 3.1 and 3.2 of this section, the president or his or her designee shall provide the demanding party with a Complaint and Notice of Hearing issued in the name of the Board as the agency of the State regulating the practice of acupuncture and oriental medicine. Such Complaint and Notice of Hearing shall designate the demanding party as the "Complainant" and shall designate the Board as the "Respondent"; shall set out the substance of each and every reason that the Board has denied the demanding party a license with sufficient particularity to reasonably apprise the demanding party of the nature, time and place of the conduct or condition at issue therein;

shall state the date, time and place for the hearing; and shall contain a statement of intention by the Board to appoint a hearing examiner.

3.7. The Board may amend the charges set forth in a Complaint and Notice of Hearing as it deems proper.

3.8. A Complaint and Notice of Hearing shall be served upon the demanding or charged party at least thirty (30) days prior to the date of hearing.

3.9. Upon written motion received by the Board no later than twenty (20) days prior to the date of hearing, a more definite statement of the matters charged or the reasons stated for denial of licensure shall be provided to the demanding or charged party or his or her counsel, at least fifteen (15) days prior to the hearing date.

3.10. Hearings shall be conducted as follows:

3.10.1. Any party to a hearing shall have the right to be represented by an attorney-at-law, duly qualified to practice law in the State of West Virginia.

3.10.2. The Board may be represented by the West Virginia Attorney General's Office.

3.10.3. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded from the hearing. Furthermore, the rules of evidence as applied in civil cases in the circuit courts of this State shall be followed. However, when necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

3.10.4. The rules of privilege recognized by the law of this State shall be followed.

3.10.5. Objections to evidentiary offers shall be noted in the record. Any party to the hearing may vouch the record as to any excluded testimony or other evidence.

3.10.6. Any party to a hearing may appear with witnesses to testify on his or her behalf; may be heard in person, by counsel or both; may present such other evidence in support of his or her position as deemed appropriate by the Board or its designated hearing examiner; and, when appropriate, may cross-examine witnesses called by the Board in support of the charges or in defense of its decision to deny licensure or educational training permit.

3.10.7. The hearing shall be held at such time and place as is designated by the Board, but no hearing shall be conducted unless and until at least thirty (30) days written notice thereof has been served upon the charged or demanding party and/or his or her attorney in person; or if he or she cannot be found, by delivering such notice at his or her usual place of abode, and giving information of its purport, to his wife or her husband, or to any other person found there who is a member of his or her family and above the age of sixteen (16) years; or if neither his wife or her husband nor any such person can be found there, and he or she cannot be found, by leaving such notice posted at the front door of such place of abode; or if he or she does not reside in this State, such notice may be served by the publication thereof once a week for three (3) successive weeks in a newspaper published in this State; or such notice may be served by registered or certified mail.

3.10.8. The hearing shall be open to the general public.

3.10.9. Members of the Board and its officers, agents and employees shall be competent to testify at the hearing as to material and relevant matters: Provided, that no member of the Board who testifies at such hearing shall thereafter participate in the deliberations or decisions of the Board with respect to the case in which he or she so testified.

3.10.10. The hearing may be conducted by one or more Board members or by a hearing examiner appointed by the Board.

3.10.11. A record of the hearing, including the complaint(s), if applicable, the notice of hearing, all pleadings, motions, rulings, stipulations, exhibits, documentary evidence, evidentiary depositions and the stenographic report of the hearing, shall be made and a transcript thereof maintained in the Board's files. Upon request, a copy of the transcript shall be furnished to any party at his or her expense.

3.10.12. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

3.10.13. Where a hearing is held upon the instance of the Board after charges have been brought against a licensee pursuant to subsections 3.4 and 3.5 of this section, the Board shall have the burden of proof and shall present its evidence and/or testimony in support of the charges first.

3.10.14. Where a hearing is held upon demand under the provisions of subsections 3.1, 3.2, 3.3, and 3.6 of this section, the demanding party shall have the burden of proof and shall therefore be required to present his or her evidence first. The Board may require the person demanding the hearing to give security for the costs thereof and if the demanding party does not substantially prevail, such facts may be assessed against them and may be collected in a civil action by other proper remedy.

3.10.15. Following the conclusion of the Board's presentation of evidence in accordance with subsection 3.10.13 of this section, the Respondent or charged party shall have the right to submit his or her evidence in defense.

3.10.16. Following the conclusion of the demanding party's presentation of evidence in accordance with subsection 3.10.14 of this section, the Board shall have the right to submit its evidence in defense.

3.10.17. The Board may call witnesses to testify in support of its decision to deny licensure or in support of the charges instituted against a licensee; may present such other evidence to support its position; and, may cross-examine witnesses called by the demanding party or charged party in support of his or her position.

3.10.18. All parties shall have the right to offer opening and closing arguments, not to exceed ten (10) minutes for each presentation.

3.10.19. Hearings held by the Board as a result of charges instituted against a licensee may be continued or adjourned to a later date or a different place by the Board or its designee by appropriate notice to all parties.

3.10.20. Motions for a continuance of a hearing may be granted upon a showing of good cause. Motions for continuance must be in writing and received in the office of the Board no later than seven (7) days prior to the hearing date. In determining whether good cause exists, consideration will be given to the ability of the party requesting the continuance to proceed effectively without a continuance. A motion for a continuance filed less than seven (7) days from the date of hearing shall be denied unless the reason for the motion could not have been ascertained earlier. Motions for continuance filed prior to the date of hearing may be ruled on by the Executive Secretary or Assistant Executive Secretary of the Board or designated hearing examiner. All other motions for continuance shall be ruled on by the Board member(s) or the hearing examiner presiding over the hearing.

3.10.21. All motions related to a case set for hearing before the Board, except motions for continuance and those made during the hearing, shall be in writing and shall be received in the office of the Board at least ten (10) days before the hearing. Prehearing motions shall be heard at a prehearing conference or at the hearing prior to the commencement of testimony. The Board member(s) or the hearing

examiner presiding at the hearing shall hear the motions and the response for the non-moving party and shall rule on such motions accordingly.

§32-8-4. Transcription of Testimony and Evidence.

4.1. All testimony, evidence, arguments and rulings on the admissibility of testimony and evidence shall be recorded by stenographic notes and characters or by mechanical means.

4.2. All recorded materials shall be transcribed. The Board shall have the responsibility to make arrangements for the transcription of the recorded testimony and evidence.

4.3. Upon the motion of the Board or any party assigning error or omission in any part of any transcript, the Board or its appointed hearing examiner shall settle all differences arising as to whether such transcript truly discloses what occurred at the hearing and shall direct that the transcript be corrected and/or revised as appropriate so as to make it conform to the truth.

4.4. A transcript of the hearing shall be provided to all members of the Board for review at least ten (10) days before the vote is taken on its decision in any licensure or licensure disciplinary matter.

§32-8-5. Submission of Proposed Findings of Fact and Conclusions of Law.

5.1. Any party may submit proposed findings of fact and conclusions of law at a time and manner designated by the Board or its duly appointed hearing examiner.

§32-8-6. Hearing Examiner.

6.1. The Board may appoint a hearing examiner who shall be empowered to subpoena witnesses and documents, administer oaths and affirmations, examine witnesses under oath, rule on evidentiary matters, hold conferences for the settlement or simplification of issues by consent

of the parties, cause to be prepared a record of the hearing so that the Board is able to discharge its functions and otherwise conduct hearings as provided in §24-3-3.10 herein.

6.2. Hearing examiners appointed by the Board are not authorized or empowered to grant, suspend, revoke or otherwise discipline any license.

6.3. The hearing examiner shall prepare recommended findings of fact and conclusions of law for submission to the Board. The Board may adopt, modify or reject such findings of fact and conclusions of law.

§32-8-7. Conferences; Informal Disposition of Cases.

7.1. At any time prior to the hearing or thereafter, the Board, its designee or its duly appointed hearing examiner may hold conferences for the following purposes:

7.1.1. To dispose of procedural requests, prehearing motions or similar matters;

7.1.2. To simplify or settle issues by consent of the parties; or

7.1.3. To provide for the informal disposition of cases by stipulation or agreement.

7.2. The Board or its appointed hearing examiner may cause such conferences to be held on its own motion or by the request of a party.

7.3. The Board may also initiate or consider stipulation or agreement proposals with regard to the informal disposition of cases and may enter into such stipulations and/or agreements without conference.

§32-8-8. Depositions.

8.1. Evidentiary depositions may be taken and read or otherwise included into evidence as in civil actions in the circuit courts of this State.

§32-8-9. Subpoenas.

9.1. Subpoenas to compel the attendance of witnesses and subpoenas duces tecum to compel the production of documents may be issued by the Board or its Executive Secretary, and by the hearing examiner appointed by the Board. Such subpoenas shall be issued pursuant to W. Va. Code 29A-5-1(b).

9.2. Written requests by a party for the issuance of subpoenas or subpoenas duces tecum as provided in subsection 9.1 of this section must be received by the Board no later than ten (10) days before a scheduled hearing. Any party requesting the issuance of subpoenas or subpoenas duces tecum shall see that they are properly served in accordance with W. Va. Code §29A-5-1(b).

§32-8-10. Orders.

10.1. Any final order entered by the Board following a hearing conducted pursuant to these rules shall be made pursuant to the provisions of W. Va. Code §§29A-5-3 and 30-1-8(d). Such orders shall be entered within forty-five (45) days following the submission of all documents and materials necessary for the proper disposition of the case, including transcripts, and shall contain findings of fact and conclusions of law.

10.2. The findings of fact and conclusions of law must be approved by a majority of the Board either by a poll or vote at a regular meeting, before a final order is entered. A copy of the final order approved by a majority of the Board shall be served upon the demanding or charged party and/or his attorney of record, if any, within five (5) days after entry by the Board by personal service or by registered or certified mail.

§32-8-11. Appeal.

11.1. An appeal from any final order entered in accordance with these rules shall comply with the provisions of W. Va. Code §30-1-9.

§32-8-12. Severability.

12.1. If any provision of this rule or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the provisions or application of this rule which can be given effect without the invalid provisions or application and to this end the provisions of this rule are declared to be severable.

**TITLE 32
LEGISLATIVE RULE
BOARD OF ACUPUNCTURE**

**SERIES 9
CONTINUING EDUCATION REQUIREMENTS**

§32-9-1. General.

1.1. Scope. --This establishes continuing education requirements for renewal of licensure pursuant to W. Va. Code §30-36-14(d).

1.2. Authority. -- W. Va. Code §§30-36-7(a) and 30-36-14(c).

1.3. Filing Date. -- May 21, 1999.

1.4. Effective Date. -- May 21, 1999.

§32-9-2. Application.

This legislative rule applies to renewal licensees and instructors of continuing education courses.

§32-9-3. Definitions.

3.1. Approved Provider. -- Those persons or organizations offering continuing education in West Virginia, who are approved by the Board.

3.2. Course. -- A systematic learning experience, at least one hour in length, which deals with and is designed for the acquisition of knowledge, skills and information relevant to the practice of acupuncture.

3.3. Hour. -- A period of time spent in a course, lasting at least fifty (50) minutes, where participation in an organized learning experience occurs.

§32-9-4. Criteria for Provider Approval.

4.1. In order to be an approved provider, a provider shall submit to the Board an

application on a form provided by the Board accompanied by the fee required by Board of Acupuncture rules, Fees of the Board of Acupuncture 32 CSR 4 . All provider applications and documentation submitted to the Board shall be typewritten and in English.

4.2. The approval of the provider expires one (1) year after it is issued by the Board and may be renewed upon the filing of the required application and fee.

4.3. Acupuncture schools and colleges which have been approved by the Board, pursuant to the W. Va. Code §30-36-10, are approved continuing education providers .

§32-9-5. Approved Providers.

5.1. For the purpose of this rule a provider may only use the title "approved provider" when the person or organization has submitted a provider application form, remitted the appropriate fee and has been issued a provider number. Programs offered by the following organizations, or their successor organizations, will be considered "approved":

5.1.1. The West Virginia Association of Oriental Medicine (WVAOM);

5.1.2. ~~The National Acupuncture and Oriental Medicine Alliance (NAOMA);~~ The American Association of Acupuncture and Oriental Medicine (AA AOM);

5.1.3. ~~The American Association of Oriental Medicine (AAOM);~~

~~5.1.4.~~ 5.1.3. The Council of Colleges of Acupuncture and Oriental Medicine (CCAOM);

~~5.1.5.~~ 5.1.4 The American Academy of Medical Acupuncturists (AAMA);

~~5.1.6.~~ 5.1.5. The National Acupuncture Teachers Association;

~~5.1.7.~~ 5.1.6. The National Acupuncture Detoxification Association; and

~~5.1.8.~~ 5.1.7. Accredited schools or colleges.

5.2. The Board shall only one provider number to a person or organization. When two or more approved providers co-sponsor a course, the course shall be identified by only one provider number and that provider shall assume responsibility for record keeping, advertising, issuance of certificates and instructor qualifications.

5.3. An approved provider shall keep the following records for a period of four years in one identified location:

5.3.1. Course outlines of each approved course given;

5.3.2. The record of time and places of each approved course given;

5.3.3. Course instructor curriculum vitae or resumes;

5.3.4. The attendance record for each approved course which shows the name, signature and license number of acupuncturists taking the course and a record of any certificates issued to them; and

5.3.5. Participant evaluation forms for each approved course given.

5.4. Within ten (10) days of completion of an approved course, the provider shall submit to the Board the following:

5.4.1. A copy of the attendance record showing the name, signature and license number of any licensed acupuncturists who

attended the approved course; and

5.4.2. The participant evaluation forms of the approved course.

5.5. Approved providers shall issue, within 60 days of the conclusion of an approved course, to each participant who has completed the course a certificate of completion which contains the following information:

5.5.1. The provider's name and number;

5.5.2. The course title;

5.5.3. The participant's name and, if applicable, his or her acupuncture license number;

5.5.4. The date and location of the course;

5.5.5. The number of continuing education hours completed; and

5.5.6. A statement directing the acupuncturist to retain the certificate for at least four (4) years from the date of completion of the course.

5.6. An approved provider shall notify the Board of any changes to the date or location of an approved course. An approved provider shall not change to the date of an approved course prior to the date for which the course was approved if the new date would occur less than 45 days from receipt of the course request.

5.7. Any changes in the content of or instructor for an approved course requires prior approval of the Board. A request to change the content of or instructor(s) for an approved course shall be received by the Board at least ten (10) days before the course begins.

5.8. An approved provider shall notify the Board within 30 days of any changes in its' organizational structure or the person responsible for the provider's continuing

education course, including name, address, or telephone number changes.

5.9. Provider approval is non-transferable.

5.10. The Board may audit during reasonable business hours records, courses, instructors and related activities of an approved provider.

§32-9-6. Approval Of Continuing Education Courses.

6.1. Only an approved provider may offer continuing education courses.

6.2. The content of all courses of continuing education shall be relevant to the practice of acupuncture and shall:

6.2.1. Be related to the knowledge and/or technical skills required to practice acupuncture; or

6.2.2. Be related to direct and/or indirect patient care. Courses in acupuncture practice management or medical ethics are also acceptable.

6.3. Each course shall include a method by which the course participants evaluate the following:

6.3.1. The extent to which the course met its stated objectives;

6.3.2. The adequacy of the instructor's knowledge of the course subject;

6.3.3. The utilization of appropriate teaching methods;

6.3.4. The applicability or usefulness of the course information; and

6.3.5. Other relevant comments.

§32-9-7. Content of Courses Applicable for

Continuing Education Credits.

7.1. License renewal requires a minimum of forty-eight hours of continuing education units or continuing medical education units from the following categories;

7.2. For each renewal period of two years, a licensee shall have a minimum of twenty-four hours of instruction in the area of acupuncture or oriental medicine from an approved provider, and;

7.3. For each renewal period of two years, a licensee may have up to twenty-four hours of instruction in western clinical sciences, medical practices, medical ethics, or medical research which are sponsored or accredited by, but not limited to, the following organizations, or their successor organizations:

7.3.1. The World Health Organization (WHO);

7.3.2. The National Institutes of Health (NIH);

7.3.3. The American Medical Association (AMA);

7.3.4. The American Osteopathic Association (AOA);

7.3.5. The American Nurses Association (ANA);

7.3.6. Local hospitals; or

7.3.7. Local colleges, and;

7.4. For each renewal period, a licensee may have no more than twelve (12) hours of training in accredited programs which will assist the licensee to carry out his or her professional management responsibilities, including, but not limited to:

7.4.1. Office, hospital, or administrative management;

7.4.2. Language training, such as Chinese or English as a foreign language; or

7.4.3. Education methodology, and;

7.5. An acupuncturist may obtain credit for any other programs which are pre-approved by the Board, at the Board's discretion.

§32-9-8. Application for Course Approval.

8.1. In order to obtain approval for a course, an approved provider shall submit to the Board a request for course approval, in English, on a form provided by the Board or in a similar format which contains the following information:

8.1.1. The provider's name, provider number, address, telephone number and contact person;

8.1.2. Course title, date, location, and number of continuing education hours;

8.1.3. The type and method of instruction and educational objectives to be met;

8.1.4. A course outline, course description, and instructor information and qualifications; and

8.1.5. All proposed public advertisements which are intended to be used by the approved provider to advertise the course. Where the provider uses a public advertisement which is developed after the course has been approved and which was not provided to the Board with the course request, the provider shall mail a copy of that advertisement to the Board within ten (10) days after its publication.

8.2. An approved provider shall obtain Board approval for every course that is offered for continuing education credit. Where a previously approved course is to be repeated, the provider shall apply to the Board for approval of each subsequent administration of the course.

8.3. An approved provider shall submit all requests for course approval to the Board at least 45 days before the course is first offered.

§32-9-9. Instructors.

9.1. It is the responsibility of each approved provider to use qualified instructors.

9.2. Instructors teaching approved continuing education courses shall have the following minimum qualifications:

9.2.1. An acupuncturist instructor, shall (A) hold a current valid license to practice acupuncture or be otherwise authorized to act as a guest acupuncturist in accordance with W. Va. Code §30-36-9(b) and be free of any disciplinary order or probation imposed by the Board, and (B) be knowledgeable, current and skillful in the subject matter of the course as evidenced through:

1. holding a baccalaureate or higher degree from a college or university and written documentation of experience in the subject matter;

2. experience in teaching similar subject matter content within the two years preceding the course;

3. have at least one year's experience within the last two years in the specialized area in which he or she is teaching.

9.2.2. A non-acupuncturist instructor shall:

A. be currently licensed or certified in his or her area of expertise if appropriate;

B. show written evidence of specialized training, which may include, but not be limited to, a certificate of training or an advanced degree in the given subject area; and

C. have at least one year's teaching experience within the last two years in the specialized area in which he or she teaches.

§32-9-10. Advertisements.

10.1. Information disseminated by approved providers publicizing continuing education shall be true and not misleading and shall include the following:

10.1.1. A clear, concise description of the course content and/or objectives;

10.1.2. The date and location of the course;

10.1.3. The provider's name and telephone number;

10.1.4. The statement "This course has been approved by the West Virginia Board of Acupuncture, Provider Number _____, for _____ hours of continuing education"; and

10.1.5. The provider's policy on refunds for cases of non-attendance or cancellations.

10.2. A provider shall not describe a course as being Board approved until written confirmation of approval by the Board has been received by the provider. Where a provider is waiting for a determination by the Board on its request for course approval, the provider may advertise that the course is "pending" approval. A provider which advertises that its course is pending approval shall assume all responsibility if a course is subsequently denied by the Board.

§32-9-11. Denial, Withdrawal and Appeal of Approval.

11.1. The Board may withdraw its approval of a provider or deny a provider application for causes which include, but are not limited to, the following:

11.1.1. Conviction of crime substantially related to the activities of a provider; or

11.1.2. Failure to comply with any provision of the W. Va. Code §30-36-1 et seq..

11.2. Any material misrepresentation of fact by a provider or applicant in any information required to be submitted to the Board is grounds for withdrawal of approval or denial of an application.

11.3. The Board may withdraw its approval of a provider or a course after giving the provider written notice setting forth its reasons for withdrawal and after giving the provider a reasonable opportunity to be heard by the Board or its designee.

11.4. Should the Board deny approval of a provider or a course request, the applicant may appeal the action by filing a letter stating the reason with the Board: The letter of appeal shall be filed with the Board within twenty (20) days of the mailing of the applicant's notification of the Board's denial. The appeal shall be considered by the Board or its designee. In the event that the Board or its designee considers the appeal after the date of the course for which the appeal is being made, a retroactive approval may be granted.

§32-9-12. Sanctions for Noncompliance.

12.1. Each acupuncturist at the time of license renewal shall sign a statement under penalty of false swearing that he or she has or has not complied with the continuing education requirements. The licensee shall submit photocopies of the documentation along with the approved renewal application form from the Board.

12.2. The Board may audit once each year a random sample of acupuncturists who have reported compliance with the continuing education requirement. No acupuncturist shall be subject to audit more than once every two (2)

years.

12.3. It constitutes unprofessional conduct for any acupuncturist to misrepresent completion of the required continuing education.

12.4. Any acupuncturist selected for audit shall submit original documentation or records of continuing education course work he or she has taken and completed.

12.5. Each acupuncturist shall retain for a minimum of four (4) years records of all continuing education programs attended which indicate the provider's name, title of the course or program, date and location of course and the number of continuing education credits awarded.

12.6. Instructors of approved continuing education courses may receive a maximum of two (2) hours of continuing education credit per year. An instructor may claim credit only where the individual acts as an instructor of an approved course. In addition, one hour of credit shall be accrued for each classroom hour completed as an instructor of a Board approved continuing education course. Participation as a member of a panel presentation for an approved course shall not entitle the participant to earn continuing education credit as an instructor.

VII. COPIES OF APPLICATION FORMS

Michelle DeStefano, LAc
Treasurer
Shepherdstown

Marian J. Hollinger
Morgantown

Brian Stephen Love, MD
Beckley

State of West Virginia

Board of Acupuncture
179 Summers Street Suite 711
Charleston, WV 25301
Ph. (304) 558-2235 Fax (304) 558-2236

Acupuncture Licensure Requirements For The State of West Virginia

C.P. Negri, OMD, NMD
President
Fairmont

D.E. Samples, ND,
OMD
Secretary
Huntington

All applicants for acupuncture licensure in the State of West Virginia shall provide evidence of ONE of the following:

1. Graduation and receipt of degree or diploma in acupuncture or Traditional Chinese Medicine or its equivalent, from a school of acupuncture or Oriental medicine of at least one thousand eight hundred hours (1800), including three hundred (300) clinical hours. This degree or diploma must be from a school that is:
 - A. Approved by NACSCAOM, the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.
- Or, -
 - B. Approved by the Board of Acupuncture as being equivalent to the NACSCAOM standards. This procedure will be known as Examination and Licensure by Diploma.
2. Achievement of a passing score on an examination that is:
 - A. Administered by the NCCA, the National Commission for the Certification of Acupuncturists. This procedure will be known as Examination and Licensure by NCCA Certification.
- Or, -
 - B. Approved by the Board of Acupuncture as being equivalent to the NCCA examination. This procedure will be known as Examination and Licensure by Examination.
3. Successful completion of an apprenticeship in acupuncture or oriental medicine. The Board of Acupuncture requires documentation of two thousand, seven hundred hours of training in a five-year period under the direction of a licensed acupuncturist or individual approved to perform acupuncture in their respective jurisdiction. Persons wishing to license through this procedure bear the burden of proving their case before the Board of Acupuncture. Applicants under this clause will have passed the NCCA exam. This procedure will be known as Examination and Licensure by Apprenticeship.
4. Performance of acupuncture in accordance with the law of another jurisdiction for a period of at least three years within the five-year period prior to application, consisting of at least five hundred patient visits per year. Persons wishing to license through this procedure bear the burden of proving their case before the Board of Acupuncture. This procedure will be known as Examination and Licensure by Experience.
5. Holders of a current license to practice acupuncture issued by another State Board of Acupuncture or its equivalent, where the educational and experience requirements meet or exceed those found in the State of West Virginia. The applicant bears the responsibility of satisfying the West Virginia Board of the education or experience requirements. This procedure will be known as Examination and Licensure by Endorsement or Reciprocity.

The application fee is \$75.00. Licensure fee is \$425.00. Application fee is not refundable. Both fees must be included with the application. There will be no exceptions.

Important: Read This Information
Instructions for Completing Application for Licensure

Application Certification: READ and SIGN this page.

Page 1: Complete in full and SIGN, return this page with photograph attached.

Page 2: Complete in full. Fraudulent answers to these questions may result in licensure denial or revocation.

Page 3: Three copies. Two copies are to be completed by individuals who are not related to you. One copy must be completed by another acupuncturist or oriental medical practitioner who is licensed in the United States. All copies of this form must be notarized. **NONE OF THESE ARE TO BE COMPLETED BY THE APPLICANT.**

Page 4: Complete in full, SIGN and return with the application. List all states in which you are now licensed or have ever been licensed, whether active, inactive, or lapsed. Fraudulent answers may result in licensure denial or revocation.

Page 5: SIGN this page in the presence of a Notary Public and return it to us.

Page 6: You must send this page to your Acupuncture or Oriental Medical School for them to complete. For those schools in countries under Communist rule, presently engaged in civil war, or no longer in existence, we will accept notarized letters from two (2) classmates, officials of the school, professors, etc., who will swear to your graduation and who were at the school the same time you were. These letters must give the name of the school and the dates both you and the letter writer started and graduated (month/year). The letters must be received by the WV Board of Acupuncture directly from the letter writer, not the applicant. These letters will not be accepted in lieu of Page 6 just because it would take a long time to have your school to complete this page. The Board reserves the right to determine which schools cannot/will not complete this page.

Page 7: This page is to be sent to each state where you now hold or have ever held an acupuncture or oriental medical license, whether it is now active, inactive, or lapsed. The applicant is to complete the RELEASE part of the page (down to the broken lines), leaving the rest of the page blank. Letters of good standing are also acceptable, as long as they have the Seal of the State Board upon them. This might require a fee, so check with each individual Board. You may make extra copies of this page as necessary.

Page 8: If you were first licensed by taking a State Board Examination this page must be sent to that State Board. They will, in turn, attach your scores and return the page directly to the WV Board of Acupuncture. The respective state may require a fee for this, so contact that State Board directly.

Page 9: If your application is based upon successful completion of the NCCA examination this page must be sent to NCCA. The applicant will complete the RELEASE part of the page (down to the broken lines). The NCCA will, in turn, attach your scores and return the page directly to the WV Board of Acupuncture. The NCCA may require a fee for this, so contact them directly.

Page 10: If your application is based upon successful completion of an apprenticeship this page must be sent to your mentor(s). He or she will, in turn, attach your records explaining in detail the full nature of your apprenticeship, scope of your training, and the length of time you studied. This must be returned directly to the WV Board of Acupuncture. The letter from your instructor must be notarized.

Page 11. All applicants must complete and sign this page.

ADDITIONAL INSTRUCTIONS

The following must be submitted with the application:

1. A **COPY** of your acupuncture or oriental medical school diploma. (Translation is **REQUIRED** if you are a foreign school graduate).
2. **COPY** of evidence or documentation which supports your claims of education, apprenticeship, licensure, NCCA Certification or experience if you do not submit a copy of your diploma.
3. A **COPY** of your birth certificate, passport, or citizenship documentation. Foreign nationals must also include a copy of their Immigration and Naturalization Service (INS) work visa documentation.
4. A **COPY** of your marriage license, divorce decree, or court order of change of name if the name shown on your diploma is not the same one you are now using. You will be licensed under the name shown on your diploma if evidence is not provided to the Board of a change of name.
5. **TWO CHECKS OR MONEY ORDERS (DO NOT SEND CASH)** made payable to the "West Virginia Board of Acupuncture" in the amount of \$75.00 and \$425.00. **The application fee is not refundable under any circumstances.** This fee will be charged again if the application process is not completed within a six-month period and the applicant reapplies. The license fee (\$425.00) will be returned if the Board does not license you.

DO NOT SEND ORIGINAL CREDENTIALS TO THIS OFFICE. The Board **DOES NOT** accept responsibility for your original documents, keep them with you until the interview process.

Your completed application must be in the Board office fifteen (15) days prior to the Board meeting at which your application will be considered. Your application must be complete, which includes being interviewed by a Board Member, before your name can be placed on the Board's agenda for consideration. **COMPLETION MEANS INCLUDING ALL SUPPORTING DOCUMENTS REQUESTED!** When your application is processed and your fee received, you will receive a form letter notifying you of what has not yet been received, along with instructions for the interview.

At the interview, YOU MUST PRESENT THE FOLLOWING:

1. Your **ORIGINAL** acupuncture or oriental medical school diploma (with translation if you are a foreign graduate), or
2. Your **ORIGINAL** evidence or documentation (with translation for documents which are not in English) supporting your case for licensure.

All interviews will be conducted by the acupuncture members of the Board during or prior to the meeting at which your application is considered.

Scope of Practice

Applicants are required to understand the “Scope of Practice” which sets the limitations upon their practices in the State of West Virginia. The West Virginia Code Chapter 30, Article 36, Section 2, defines the scope of acupuncture in the State of West Virginia. This definition is further defined by Rules of the Board of Acupuncture, Title 32 as approved by the Legislature. Practitioners regulated and licensed by the West Virginia Board of Acupuncture must adhere to these guidelines. Practicing outside of the West Virginia Code or Board Rules can result in Reprimand, Probation, Fines, Suspension and finally Revocation of your licensure.

Definitions under the West Virginia Code:

Acupuncture- means a form of health care, based on a theory of energetic physiology, that describes the interrelationship of the body organs or functions with an associated point or combination of points.

Moxibustion- means the burning of mugwort on or near the skin to stimulate the acupuncture point.

Practice Acupuncture- means the use of oriental medical therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance and restoration of health.

Therapies specifically included under the West Virginia Code:

Needling- the stimulation of points of the body by the insertion of acupuncture needles.

Moxibustion- the application of moxa to or near the acupoint.

Manual- the use of oriental manual therapies for assessment and treatment, such as massage, joint mobilizations, Anma, Tuina, Shiatsu, and Qigong. These therapies can be used to correct structural imbalances only when used in accordance with traditional and modern oriental medical theory.

Mechanical-the use of mechanical devices, such as cups, hammers, and other mechanical vibrators which are used to assess and treat the physiological condition of an acupoint or combination of acupoints. The use of mechanical devices must be in accordance with traditional and modern oriental medical theory.

Electrical- the use of electrical devices for assessment and treatment, such as point stimulators, lasers, TENS units, light/ spectrum therapies, ion pumps and magnets when used in accordance with traditional and modern oriental medical theory.

Thermal- the use of thermal devices for assessment and treatment, such as infra red, diathermy, ultra sound, and interferential when used in accordance with traditional and modern oriental medical theory.

Point Puncture- the use of sterile material medica injected into the acupuncture point for physiologic or energetic therapy when used in accordance with traditional or modern oriental medical theory.

Materia Medica- the use of herbs, vitamins, minerals, organ extracts, homeopathics, or physiologic materials for energetic or physiologic therapy when used in accordance with traditional or modern oriental medical theory.

Special Discrimination Clause

Practitioners licensed by the West Virginia Board of Acupuncture cannot refuse, withhold from, deny or discriminate against any individual with regard to the provision of professional services because the individual is HIV positive. The West Virginia Board of Acupuncture will take swift disciplinary action in cases of discrimination of any type.

West Virginia Board of Acupuncture
Application Certification

I hereby certify that I have read the preceding four (4) pages explaining the acupuncture licensure requirements for the State of West Virginia, and I understand what I have read, and I understand what I am required to produce for acupuncture licensure in the State of West Virginia. I understand that if I am unable to meet all of these requirements, including the production of all required documents and materials, I must be denied acupuncture licensure in the State of West Virginia. I hereby certify that I am able to meet all these requirements for acupuncture licensure in the State of West Virginia and that I will be able to produce all required documents and materials.

I also understand that if this application is not completed with six (6) months, I will be required to update the application fully.

I have read and understand the "Scope of Practice" and "Special Discrimination Clause" section as defined by the statutes of the State of West Virginia.

Applicants Signature: _____ Date: _____

Sign and date this form and return to the Board attached to the front of Page 1 of your application.

West Virginia Board of Acupuncture
179 Summers Street Suite 711
Charleston, WV 25301
Ph. (304) 558-2235 Fax (304) 558-2236

APPLICATION FOR LICENSURE BY: (Check only one)

___ Diploma ___ Examination ___ Endorsement ___ Apprenticeship
___ NCCA Certification (Date: ___/___/___) ___ Experience

PLEASE TYPE OR PRINT CLEARLY

Name: _____
(Last) (First) (Middle)

Address: _____

City: _____ State: _____ Zip: _____ County: _____

Business Phone: _____ Home Phone: _____

Date of Birth: _____ Place of Birth: _____

If female and married, list maiden name: _____

Name and Address of Acupuncture or Oriental Medical School: _____

Date of Graduation: _____

Type of Practice: _____ Board Specialty (if certified): _____

Board Certified: Yes _____ No _____ Date Certified: _____

Social Security Number: _____/_____/_____

Sex: Male _____ Female _____

IDENTIFICATION

PHOTOGRAPH

Height: _____

Weight: _____

Color of Eyes: _____

Tape photograph here. Must have been taken within
one

Color of Hair: _____

year of application. Enter date photo was taken and
sign

in ink across the bottom. Photo must be able to fit here.

<<Read Everything on this page carefully and completely>>
<<False or Fraudulent answers to the following questions may result in licensure denial or revocation.>>

Have you ever, in any jurisdiction, in any country, for any reason:

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 1. been called before or appeared before any board or panel for discussions or questions concerning violations of the law or rules pertaining to the practice of acupuncture or oriental medicine, or for unethical conduct? | _____ | _____ |
| 2. been charged with or convicted of or pled nolo contendere to any felony or misdemeanor? | _____ | _____ |
| 3. been charged with or convicted of a violation of the Controlled Substance Act or any federal, state or local law pertaining to the manufacture, distribution, prescribing, or dispensing of controlled substances? | _____ | _____ |
| 4. had limitations, restrictions or conditions placed upon your license to practice, or had your license to practice suspended, revoked or subjected to any kind of disciplinary action, including censure, reprimand or probation? | _____ | _____ |
| 5. voluntarily surrendered or limited your license to practice acupuncture or oriental medicine? | _____ | _____ |
| 6. been denied a license to practice acupuncture or oriental medicine in another jurisdiction or by another Board? | _____ | _____ |
| 7. voluntarily resigned employment as an acupuncturist or oriental medical practitioner or failed to renew a license or credential to avoid, or prior to, disciplinary action? | _____ | _____ |
| 8. Had any judgements or settlements arising from a acupuncture professional liability rendered or made against you,
And if yes, how many ? _____ | _____ | _____ |

Have you in the last five years, in any jurisdiction, in any state, in any country:

- | | | |
|--|-------|-------|
| 9. been addicted to, received treatment for the use or misuse of, prescription drugs and/ or illegal chemical substances, or been dependant upon alcohol or received treatment for alcohol dependancy? | _____ | _____ |
| 10. Had any physical or mental condition or impairment that interrupted your practice of acupuncture that might reasonably be expected to affect your ability to practice acupuncture safely and with competence at this time? | _____ | _____ |

If you answered "YES" to any of the above questions, you MUST furnish full details on an 8 1/2 X 11 sheet of paper which MUST be attached to this application.

I have carefully read the questions in this application and have answered them completely, without reservations of any kind that my answers and all statements made herein are true and correct. I understand that any license issued from this application is based on the truth of the statements contained herein, and that should I furnish any false information in this application, such act constitutes good cause for the denial or revocation of my license to practice acupuncture in the State of West Virginia.

Applicants
signature: _____ Date: _____

GOOD MORAL CHARACTER STATEMENT

State of _____

County of _____

I, _____, do swear to have known the
(Name of Affiant)

applicant _____ well for _____ years and know
(Name of Applicant)

him/her to be a person of good moral character.

Signature of Affiant

Address of Affiant

Sworn to before me this _____ day of _____, 19____.

My commission expires _____.

Notary Seal

Notary Public

Return this form directly to:
West Virginia Board of Acupuncture
179 Summers Street Suite 711
Charleston, WV 25301
Ph. (304) 558-2235 Fax (304) 558-2236

GOOD MORAL CHARACTER STATEMENT

State of _____

County of _____

I, _____, _____, am currently licensed in the
(Name of Affiant) (Degree)

State of _____ and I do swear to have known the

applicant _____ well for _____ years and know

him/her to be a person of good moral character.

Signature of Affiant

Address of Affiant

Sworn to before me this _____ day of _____, 19____.

My commission expires _____.

Notary Seal

Notary Public

Return this form directly to:
West Virginia Board of Acupuncture
179 Summers Street Suite 711
Charleston, WV 25301

False or Fraudulent Answers to these questions may result in Licensure Denial or Revocation

List all Health Professional Licenses Held in All States (whether active, inactive, or lapsed)

Name of State	Certificate Year	Classification Number	Classification Type	Based Upon			Status
				NCCA	State Exam	Diploma	

(If you need more space, attach an 8 ½ x 11 sheet of paper and continue)

Places of Residence and Occupations Since Graduation from Acupuncture School

A. In countries other than the United States:

B. In the United States:

List All Training Programs, Including Post-Graduate Since Graduation (give month/year)

List All State and National Acupuncture/Oriental Medical Societies of which you are a member.

Applicants Signature: _____ Date: _____

AFFIDAVIT

I, _____, being first duly sworn, depose and say that I am the person described and identified; that I am of good moral character; that I have not engaged in any of the acts prohibited by the statutes of the State of West Virginia; that I am the person named in the diploma which accompanies this application; that I am the lawful holder of said diploma; that said diploma was procured in the regular course of instruction and examination without fraud or misrepresentation.

I hereby request and authorize all hospitals, medical institutions or organizations, personal references, acupuncturists, employers (past and present), business and professional associates (past and present), and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the West Virginia Board of Acupuncture any information, files, or records required by the Board regarding my clinical ability, education, training, professional ethics, character, physical and mental health, emotional stability, veracity, and any other factors which will or may reflect upon my competence, ethical integrity or physical or mental well-being, for its evaluation of my professional qualifications for licensure in the State of West Virginia. I hereby release all such individuals and entities and their employees, agents and designees from any and all liability for the transmittal of any information or records bearing on my professional qualifications in connection with this request and authorization.

I have carefully read the questions included on each page of this application and have answered them completely, without reservations of any kind, and I declare that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree and understand that such an act shall constitute good cause for the denial, suspension, or revocation of my license to practice in the State of West Virginia.

A photo copy of this Affidavit shall have the same force and effect as the original.

Applicant's Signature

Subscribed and sworn to before me this _____ day of _____, 19_____.

NOTARY SEAL

Notary Public for the State of

Name of State

My commission expires _____, 19_____.

Return this form to: West Virginia Board of Acupuncture
179 Summers Suite 711
Charleston, WV 25301
Ph. (304) 558-2235 Fax (304) 558-2236

Acupuncture / Oriental Medical Education
Certificate of Dean, Secretary, or Registrar of Acupuncture School
or Oriental Medical College
(Must be completed by a representative of the School)

This is to certify that _____
(Name of Graduate)

has satisfactorily completed _____ hours of acupuncture / oriental medical education at the

_____, located at
(Name of Acupuncture / Oriental Medical College)

(Address of Acupuncture / Oriental Medical College)

The aforesaid graduate received the degree of _____ from this

College on ____/____/____.
(Month, Day, Year)

(Signature)

(Title)

SEAL OF COLLEGE

Return this page to:
West Virginia Board of Acupuncture
179 Summers Street Suite 711
Charleston, WV 25301
United States of America

Ph. (304) 558-2235 Fax (304) 558-2236

Verification of Licensure

I, _____, hereby authorize and request the State Board of _____, having control of any documents, records, and other information pertaining to me, to furnish the West Virginia Board of Acupuncture information including documents, records regarding charges or complaints filed against me, formal or informal, pending or closed, or any other pertinent information.

(Signature) (License Number) (Issue Date)

(Print Name in Full) Date of Birth Social Security No.

(Other Names Used in Obtaining Licensure) Current Address

This section is to be completed by an official of the State Board and Returned to the West Virginia Board of Acupuncture, 179 Summers Street Suite 711, Charleston, West Virginia 25301

State of: _____

Full Name of Licensee: _____

Graduate of: _____

License No.: _____ Issue Date: _____ Expiration Date: _____

Current Status: _____

License Method: () National Board (NCCA) () State Board
() Diploma / Degree only () Other : _____
() Reciprocity / Endorsement with: _____

Is the applicant currently subject of a pending investigation by a licensing or disciplinary authority in your state?
Yes _____ No _____ Unable to Divulge _____ (If yes, please attach details)

Have formal disciplinary proceedings ever been initiated against applicant or applicant's license by a disciplinary authority in your state? Yes _____ No _____ Unable to Divulge _____ (If yes, please attach details)

Has the applicant ever had his or her license to practice Acupuncture / Oriental Medicine limited, conditioned, restricted, suspended, revoked or subjected to any kind of disciplinary action, including censure, reprimand or probation, or has the applicant ever voluntarily surrendered or limited his/her license to practice Acupuncture / Oriental Medicine, in your state?
Yes _____ No _____ Unable to Divulge _____ (If yes, please attach details)

Comments,
if any: _____

Signed: _____
Board Seal

Title: _____ State Board of _____

Date: _____

Certification of State Board Examination

I certify that _____, in the examination
(Name of Applicant)
before the _____ Licensing Board attained a
(Name of Board)
general average of _____ per cent, and that the following marks were obtained in the subjects named:

Please List Subject and Grade Obtained by Applicant

I do further certify that a certificate to practice Acupuncture / Oriental Medicine was issued to
said applicant on the _____ day of _____, 19_____, upon the
following qualifications:_____.

Board Seal

Signed: _____

Title: _____

Address: _____

Date: _____

Return this form to:
West Virginia Board of Acupuncture
179 Summers Street Suite 711
Charleston, WV 25301

Certification of NCCAOM Examination

I, _____, hereby authorize and request the NCCAOM, having control of any records pertaining to my examination and certification, to furnish such information regarding my examination and scores to the West Virginia Board of Acupuncture.

----- (Signature) -----	----- Certification No. -----	----- Issue Date -----
----- (Print Name in Full) -----	----- Date of Birth -----	----- Social Security No. -----

This section to be completed by an official of the NCCA, 1424 16th Street, NW, Washington, DC 20036, phone (202) 232-1404, fax (202) 462-6157

I certify that _____, in the examination before the National Commission for Certification of Acupuncture attained a general average of _____ per cent, and that the following marks were obtained in the subjects named:

Please List Subject and Grade Obtained by Applicant

The applicant took the exam in: () English
() Chinese

NCCAOM Seal

Signed: _____
Title: _____
Date: _____

Return this form to:
West Virginia Board of Acupuncture
179 Summers Street Suite 711
Charleston, WV 25301

Verification of Apprenticeship

I, _____, hereby authorize and request that _____, having control of any documentation, records or other information pertaining to my professional training and apprenticeship, to furnish to the West Virginia Board of Acupuncture such information, including documents, records regarding that professional training.

Signature Date

This section is to be completed by the instructor of your apprenticeship.

Name: _____

Degree: _____

Licensed by: _____ License

Number: _____

Education: _____

Address: _____

Phone: _____

I, _____, certify that _____ has satisfactorily
(Instructor) (Apprentice)
completed _____ hours of Acupuncture / Oriental Medicine training in an apprenticeship program of education. The details of the program and the records of the applicant's work, progress, grades, and scope of training are attached. This apprenticeship included _____ hours of direct patient care or supervised clinical training. The program was approved by the State of _____, Board of _____.

The applicant started this program _____ and graduated from this program
(Month / Day / Year)

on: _____
(Month / Day / Year)

Signed: _____ Date: _____

Notary Signature: _____ Date: _____

Notary Seal

My commission expires: _____

Return this form to: West Virginia Board of Acupuncture
179 Summers Street Suite 711
Charleston, WV 25301

State of West Virginia
Board of Acupuncture
179 Summers Street Suite 711
Charleston, WV 25301
(304) 558-2235

Pursuant to the provisions of West Virginia Code Section 48A-5A-5(C), the West Virginia Board of Acupuncture is required to include a new question section on all initial and all renewal applications relative to child support.

The code, Section 48-5A-5(C), states:

“Each licensing authority shall require license applicants to certify on the license application form, under penalties of false swearing, that the applicant does not have a child support obligation, the applicant does not have a child support obligation, the applicant does have such an obligation but any arrearage amount does not equal or exceed the amount of child support payable for six months, or the applicant is not the subject of a child support related subpoena or warrant. A license shall not be granted to any person who applies for a license if there is an arrearage equal to or exceeding the amount of child support payable for six months or if it is determined that the applicant has failed to comply with a warrant or subpoena in a paternity or child support proceeding. The application form shall state that making a false statement may subject the license holder to disciplinary action including, but not limited to, immediate revocation or suspension of the license.”

The Board of Acupuncture requires the following page to be signed and notarized as an additional page in the application. **NO LICENSE WILL BE ISSUED WITHOUT THE FOLLOWING PAGE BEING COMPLETED.**

Child Support Affidavit

<<False or Fraudulent answers to the following questions may result in licensure denial or revocation>>

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 1. I have a child support obligation. | ---- | ---- |
| If you answered yes to the above question you must answer the following questions. | | |
| 2. I am current on my child support obligations. | ---- | ---- |
| 3. My child support obligation is six months or more in arrears at this time. | ---- | ---- |
| 4. I am the subject of a child support subpoena or warrant at this time. | ---- | ---- |

 If you answered "YES" to any of the above questions, you MUST furnish full details on an 8 1/2 X 11 sheet of paper which MUST be attached to this application.

I have carefully read the questions on this page and have answered them completely, without reservations of any kind, that my answers and all statements made herein are true and correct. I understand that false swearing can lead to disciplinary action including, but not limited to, immediate revocation or suspension of my license to practice acupuncture and oriental medicine in West Virginia.

Applicant's signature: _____ Date: _____

VIII. NEW BOARD FORMS FOR 2007

Joe Manchin III,
Governor

Michelle DeStefano, LAc
Shepherdstown
Marian Hollinger
Morgantown
Brian Stephen Love, MD
Beckley



179 Summers Street Suite 711
Charleston, WV 25301
Ph. (304) 558-2235

C. P. Negri, OMD, NMD
Fairmont
Darrell E. Samples, ND, OMD
Huntington

~State of West Virginia~

Board of Acupuncture

Notice of File Sanitization

Dear Licensee,

The Board of Acupuncture wants you to understand that we are concerned about protecting your privacy while complying with the public requirement of openness and transparency. Each of you has a file on record with the Board office, which includes your initial application, letters of reference, school transcripts and renewal applications. You need to understand that these files are public record. They are available to other governmental agencies, including but not limited to the IRS, WV Department of Tax and Revenue, WV Division of Unemployment Services, the WV Child Protective Services court, and the WV Department of Health and Human Services on simple request.

Some of your files have been subject to subpoena from various states Attorney General, requiring proof of licensure.

You are now notified that in order to comply with the various legal requirements regarding your privacy and personal security, as well as the Board's obligation to the State of West Virginia, we will begin to "sanitize" each licensee's file and record.

What does this mean, to sanitize?

The files will be reviewed for data that might compromise you or your identity or make you subject to identity theft. These pieces of information will need to be transcribed to another "confidential" file that can only be opened on court order.

What will be placed in the confidential file?

Enclosed you will find a page which the Board requires you to complete and return to the Board office by regular mail. The information found on the form will not be released to the public. The information contained in your current file will have this information removed or blacked out.

Your home address will not be given out to the public. Most of us do need to keep our home address private. Your professional address or work address will be given out. Same with your home phone vs. your professional phone.

The Board of Acupuncture is required by law to have your social security number on file. However, it is illegal for the Board to release your SSN to anyone other than child protective services court without a court order or subpoena.

The Board is required by law to have on file your trade or business name and any Federal Employer Identification Number associated with your practice. This number is used to cross reference with the Secretary of State, Department of Tax and Revenue and the Division of Unemployment Services for delinquencies' which would void your license to practice. The Board cannot issue renewals without specific approval from these governmental agencies.

If you are still using your SSN as your practice identification, we strongly recommend that you discontinue convert to a FEIN for self-protection from identity theft.

NPI (National Provider Identification number) is the new identification system that all health care providers are being enrolled. The NPI will replace the older UPIN (unique provider identification number) and allows boards from various states to tract practitioners.

Please take the time to complete the attached form and return it to the Board's office at the mailing address on the top of the first page.

Thank you,

**Darrell E. Samples
Board Secretary**

Joe Manchin III,
Governor



179 Summers Street Suite 711
Charleston, WV 25301
Ph. (304) 558-2235

Michelle DeStefano, LAc
Shepherdstown
Marian Hollinger
Morgantown
Brian Stephen Love, MD
Beckley

C. P. Negri, OMD, NMD
Fairmont
Darrell E. Samples, ND, OMD
Huntington

~State of West Virginia~

Board of Acupuncture

Confidential File

Name

Last: _____ **First:** _____ **MI:** _____

Business Address: _____

Business Phone: _____ **Business email:** _____

The following information (below) is confidential and may not be released under Freedom of Information requests. The information on this page is to be used by the Board in WV Code mandated searches only and is considered to be privileged.

Home Address:

City: _____ **State:** _____ **County:** _____

Country: _____ **Postal Code:** _____

Home Phone: _____

Date of Birth: _____ **SSN:** _____ - _____ - _____

FEIN: _____ - _____ **NPI:** _____

I, _____, swear that the information provided on this page to be true and accurate to the best of my knowledge, under penalty of false swearing.

Signature _____ **Date** _____

Return to: WVBOA, 179 Summers Street Suite 711, Charleston, WV 25301

Joe Manchin III,
Governor

Michelle DeStefano, LAc
Shepherdstown
Marian Hollinger
Morgantown
Brian Stephen Love, MD
Beckley



179 Summers Street Suite 711
Charleston, WV 25301
Ph. (304) 558-2235
Fax (304) 558-2236

C. P. Negri, OMD, NMD
Fairmont
Darrell E. Samples, ND, OMD
Huntington

~State of West Virginia~

Board of Acupuncture

Audit

The WV Board of Acupuncture is completing an audit of the licensees. This audit should be completed and returned with the "Confidential" work sheet. This audit is in compliance with the WV Code Chapter 30 Articles 1 and 36.

Please answer the following questions.

1) I am a licensee who practices in the State of West Virginia. Yes No

If you answered "Yes," please provide the Board copies of your professional liability insurance coverage with this signed page.

If you answered No, please go to question 2.

2) I am a licensee who practices outside of the State of West Virginia. Yes No

If you answered "Yes," please provide the Board with copies of your current continuing education certificates with this signed page.

You only need to complete one of the above.

I, _____, attest under penalties of false swearing that the enclosed copies are true to the originals and represent true and valid documents. I understand that the penalty for false swearing to a government official is punishable under the Patriot Act and the WV Code which can result in fines, censure, suspension or termination of my license.

Signature

Date: _____

Return to: WVBOA, 179 Summers Street Suite 711, Charleston, WV 25301

IX. Register of Applicants

REGISTER OF APPLICANTS FOR LICENSURE

Name	License #	Issued
Negri C.P. Negri, OMD, NMD	96100	Jan. 1997
Samples Darrell E. Samples, ND, OMD	96101	Jan. 1997
Worth Jeffrey T. Worth, RN, OMD	96102	Jan. 1997
Wadsworth William Wadsworth, PhD, Lic Ac	96103	Jan 1997
Karpinski Keythe J. Karpinski, OMD	96104	Jan. 1997
Cui Luke Xue Liang Cui, MD, PhD	96105	Mar. 1997
Geng Yuan Geng, MD	96106	Mar 1997
Hill William B. Hill, MAc, MS	96107	Mar 1997
Jin Xiaoming Jin, OMD	96108	Mar 1997
Molin Joseph P. Molin, II, OMD	96109	Mar 1997
Shang Qingguo Shang, OMD	96110	Mar. 1997
Walsh Brian D. Walsh, Cac	96111	Mar 1997
Wang Min Wang, OMD	96112	Mar. 1997
West Susan L. West, LAc	96113	Mar. 1997
Thaxton Stephen Thaxton, DC	Application denied	Nov 1997
Cai Xiao Dong Cai, OMD	96114	Nov 1997
Huetter Janice E. Huetter, MAc, DDS,	96115	Nov 1997
Magan Mary M. Magan, AP, MAc	96116	Nov 1997
Fisher Philip Fisher, DO	Application denied	Mar 1998
Weixler Lois Weixler, DO	Application denied	Mar 1998
Strozier-Adams Anne H. Strozier-Adams BA, MAc	96117	Mar. 1998
Zhou Qun Zhou, MS, MD	96118	Mar 1998
Axley Gary Lee Axley, OMD, DOM	96119	May 1998
Beaudette Jessica Anne Beaudette	96120	May 1998
Dworkin Marc L. Dworkin, ND, LAc	96121	May 1998
Maks Stephen M. Maks, RN, MSOMed	96122	May 1998

Name	License #	Issued
Martin Danny Lee Martin, OMD, ND	96123	May 1998
Weshinskey Erika Lyn Weshinskey, LAc	96124	May 1998
Zhu Xiaoping Zhu, OMD	96125	May 1998
Jackson Rowen Oakleigh Jackson, DOM	96126	June 1998
Parsons Richard I. Parsons, MSOMed	96127	June 1998
Bélar d Jean-Louis Bélar d, MD	96128	July 1998
Wang Peng (Nelson) Fee Wang, CA, AP	96129	July 1998
Squire Anderson Cynthia Squire Anderson, MSOM	96130	Nov 1998
DeStefano Michelle M. DeStefano MS, MAc	96131	Nov. 1998
Brooks Judith A. Brooks	A p p l i c a t i o n withdrawn	Apr 1999
Pearl James Pearl, MSOM	96132	Apr 1999
Kochek Kurt Kochek, MSOM, AP	96133	Apr 1999
Durand Cheryl S. Durand, OMD	96134	Oct 1999
Durand Frank Durand, OMD	96135	Oct 1999
Lowry James Kenneth Lowry, LMT, LAc	96137	Oct. 1999
Armbrecht Christina R. Peraino Armbrecht, LAc	96138	Oct. 1999
Wang Zengxian Wang, OMD	96139	Apr. 2000
Brown Andrea K. Brown, OMD	96140	Dec. 2000
Connor Marie E. Connor, M.Ac.	96141	Dec. 2000
Cooner H Helen Bella Cooner, L.Ac.	96142	Dec. 2000
Cooner S Steven L. Cooner, L.Ac.	96143	Dec. 2000
Chen Li Dian Chen, OMD	96144	May 2001
Woronoff Janis Robin Woronoff, LAc	96146	Sept. 2001
License number void	96147	
Matallana Hernando Matallana, ND, OMD	96148	Mar. 2002
Howard Todd Nicholas Howard, PhD, DAc	96149	Mar. 2002
Marggraf Tamora Rae Marggraf, MAc, LAc	96150	Mar. 2002
Hardesty Seth Hardesty, LAc	96151	July 2002

Name	License #	Issued
Jacobs Rose Marie Jacobs, OMD	96152	July 2002
Otte Per G. Otte, ND, DSc	96153	Aug. 2002
Methner K Kevin M. Methner, OMD	96154	Aug. 1 2002
Methner J John P. Methner, II, OMD	96155	Aug. 1 2002
Hughes Robin Bayard Hughes, MAc	96156	Nov. 2002
Smith Scott Emmet Smith, OMD, DipAc	96157	Nov. 2002
von der Heydt Samantha von der Heydt	96158	Dec. 2002
Staats Dee Ann Staats, PhD	96159	May 2003
Bienert Sharon Ann (Ruby) Bienert, LAc	96160	Sept. 2003
Hart Patrick W. Hart, Jr., ND, OMD	96161	Sept. 2003
Oxford-Pickeral Misti Gayle Oxford-Pickeral	96162	Sept. 2003
Rader Julia R. Rader Pending as of 9/1/03	96163	Sept 2003
Rhineland Nancy Crocker Rhineland, LAc	96164	Sept. 2003
Wizba Albert James Wizba, LAc	96165	Sept. 2003
Ronnbeck Heather Ronnbeck, OMD	96168	Dec. 2003
License number void	96169	
Slaymaker James Slaymaker, L Ac	96170	Apr. 2004
Roman Stacy Lee Roman, OMD	96171	July 2004
Fleetman Amy R. Fleetman, LAc	96172	July 2004
Schantz David Schantz	96173	Nov. 2004
Arnett Stephen J. Arnett, OMD	96174	June 2005
Knudson Teresa A. Knudson, OMD	96175	June 2005
Freiberg Richard A. Freiberg, OMD	96176	June 2005
Reinhardt Paul Reinhardt, OMD	96177	Aug. 2005
Riley Tiffany Riley, DOM	96178	Aug. 2005
Muniz Edwin Muniz, MD, OMD, PhD	96179	Sept. 2005
Dinning K.G. Dinning, M.Ac., Dipl. Ac.	96180	Nov. 2005

Name	License #	Issued
Dudley Nicholas Dudley, OMD	96181	Jan. 2006
Kesnel Theus Kesnel, OMD	96182	Feb. 2006
Coudray Catherine R. Coudray, OMD	96183	Mar. 2006
Mulvi Thomas J. Mulvi, OMD, NMD	96184	July 2006
Tulp Orien L. Tulp, MD, OMD	96185	July 2006
Merritt Richard W. Merritt, DC, OMD	96186	July 2006
Schaefer Michael T. Schaefer, OMD	96187	July 2006
Merritt Rodney W. Merritt, DC, OMD	96188	July 2006
DiStefano Joseph DiStefano, OMD	96189	July 2006
Mahalati Zauher Karim Mahalati, OMD	96190	July 2006
Nguyen Tuan Anh Nguyen, MSAOM	96191	Aug. 2006
Neff William Joseph Neff, OMD	96192	Aug. 2006
DiMarco Donna Lee DiMarco, ND, OMD	96193	Nov. 2006
Ericson Kristen Ericson, BS, MSTOM	96194	Nov. 2006
Beakey Joseph W. Beakey, OMD	96195	Jan. 2007
Forman Carolyn Jean Forman, OMD	96196	Feb. 2007
Saldana Augustus V. Saldana, M.Ac.	96197	Feb. 2007

X. List of Tutorial Applications

Acupuncture Tutorials, Apprenticeships and Preceptorships
The following is a list of those who have been approved for tutorials, apprenticeships, and preceptorships:

Name	Preceptor	Status
1 Brian Walsh	Dr. Thomas Mak	Complete
2 Rose Jacobs	Dr. Luke Cui	Complete
3 Henri Roca	Dr. Darrell Samples	Incomplete
4 Jake Flemmer	Dr. C.P. Negri	Incomplete
5 Kanako Mizuno	Dr. C.P. Negri	Incomplete
6 Nancy Goodpasture Castro	Dr. C.P. Negri	In progress
7 Patty Link	Dr. Qingguo Shang	In progress

**XI. LIST OF LICENSEES BY
THE BOARD**

Active Licensee

<i>Last Name</i>	<i>First Name</i>	<i>Address</i>	<i>Address 2</i>	<i>City</i>	<i>State</i>	<i>Zip</i>
Arnett	Stephen	62 Van Borders Road		Falcon	KY	41426
Axley	Gary	420 Elm Street	PO Box 2256	Waldron	AR	72958
Beakey	Joseph	2700 N. 29th Avenue	Suite 106	Hollywood	FL	33020
Brown	Andrea	PO Box 611		Harpers Ferry	WV	25425
DeStefano	Michelle	PO Box 537		Shepherdstown	WV	25443
DiMarco	Donna	531 N. Ocean Blvd.	# 704	Pompano Beach	FL	33062
DiStefano	Joseph	6776 54th Avenue, North	Suite B	St. Petersburg	FL	33709
Dudley	Nicholas	1521 Rambler Road		Charleston	WV	25314
Ericson	Kristen	1101 W. Portage Trail		Akron	OH	44313
Forman	Carolyn	110 Brookland Ct.	Unit 2	Winchester	VA	22602
Gigliotti	Tyme	2985 Normandy Drive		Ellicott City	MD	21043
Hart, Jr.	Patrick	3560 Alma Road	# 1123	Richardson	TX	75080
Hummel	Eugene	1188 Wooster Road		Barberton	OH	44230
Jacobs	Rose Marie	2402 Kanawha Blvd, East		Charleston	WV	25311
Knudson	Teresa	2175 South Ocean Blvd.	# 106	Delray Beach	FL	33483
Mahalati	Zauher Karim	PO Box 20307		Tampa	FL	33622
Marggraf	Tamora	PO Box 613		Great Cacapon	WV	25422
Martin	Danny Lee	619 East 6th Street		Texarkana	AR	71854
Merritt	Richard	1253 West Memorial Blvd.		Lakeland	FL	33815
Merritt	Rodney	1253 West Memorial Blvd.		Lakeland	FL	33815
Mulvi	Thomas	7320 Avenue T		Brooklyn	NY	11234
Muniz	Edwin	809 East Bloomingdale 421		Brandon	FL	33511
Negri	C	225 Fairmont Avenue		Fairmont	WV	26554
Otte	Per	956 N. Eisenhower Drive		Beckley	WV	25801
Peraino Armbrecht	Christina	PO Box 1264		Charleston	WV	25325
Reinhardt	Paul John	325 South Jefferson Street		Beverly Hills	FL	34465
Riley	Tiffany	13051 Sunshine View Court		Clemont	FL	34711
Roman	Stacy Lee	1762 Blue Horizon Drive		Morgantown	WV	26501
Saldana	Augustus	213 East Washington Street	Second Floor	Lewisburg	WV	24901
Samples	Darrell	2429 Eighth Street		Huntington	WV	25703
Schaefer	Michael	2038 Iowa Avenue, NE		St. Petersburg	FL	33703
Shang	Qingguo	300B Prestige Park Drive		Hurricane	WV	25526
Slymaker	James	1224 Pineview Drive	Suite C	Morgantown	WV	26505
Strozier-Adams	Anne	3591 Brush Road		Lewisburg	WV	24901

<i>Last Name</i>	<i>First Name</i>	<i>Address</i>	<i>Address 2</i>	<i>City</i>	<i>State</i>	<i>Zip</i>
Tulp	Orien	PO Box 506 S. Mayfield Esta	Olveston, Mo	West Indies		0
von der Heydt	Samantha	100 East Main Street		White Sulphur Springs	WV	24986
von Peters	William	715-C Signal Mountain Road		Chattanooga	TN	37405
Wang	Min	58 Sixteenth Street		Wheeling	WV	26003
Wang	Zengxian	111 Manor House Lane		Berkeley Springs	WV	25411
Weshinsky	Erika Lyn	111 West Washington	Suite # 5	Charles Town	WV	25414
Woronoff	Janis	2823 Swinging Bridge Road		Hedgesville	WV	25427
Worth	Jeffrey	14 South Main Street		Boonsboro	MD	21713