

Mississippi Secretary of State
 125 South Congress St., P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Mississippi State Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-3079	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL mboard@msbml.ms.gov	SUBMIT DATE 7/26/17	Name or number of rule(s): Part 2625: Acupuncturist		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: The rules in this Part have been updated to reflect current legislative changes.

Specific legal authority authorizing the promulgation of rule: 73-71-13

List all rules repealed, amended, or suspended by the proposed rule: Part 2625: Acupuncturist

ORAL PROCEEDING:

- An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____
- Presently, an oral proceeding is not scheduled on this rule.

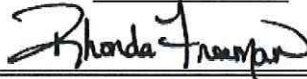
If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

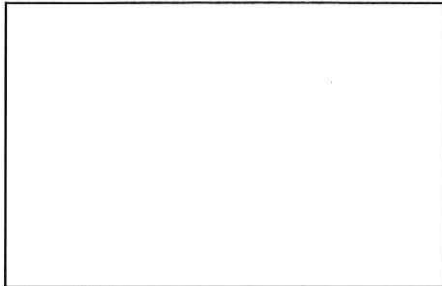
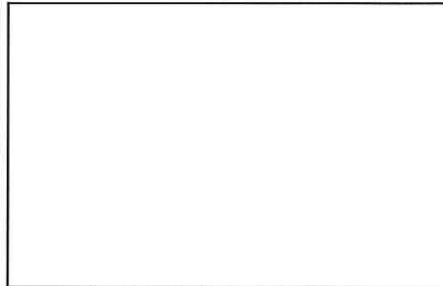


ECONOMIC IMPACT STATEMENT:

- Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
<input type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input type="checkbox"/> Immediately upon filing <input type="checkbox"/> Other (specify): _____	Action proposed: <input type="checkbox"/> New rule(s) <input type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed final effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____	Date Proposed Rule Filed: 06/07/2017 Action taken: <input checked="" type="checkbox"/> Adopted with no changes in text <input type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____

Printed name and Title of person authorized to file rules: Rhonda Freeman

Signature of person authorized to file rules: 

OFFICIAL FILING STAMP  Accepted for filing by	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP  Accepted for filing by	OFFICIAL FILING STAMP  Accepted for filing by 
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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Part 2625: Chapter 1 The Practice of Acupuncture

Rule 1.1 Scope. The following rules pertain to acupuncture practitioners performing the technique of acupuncture. Except as otherwise provided below, the practitioner may perform acupuncture on a patient only if the patient was evaluated by a physician, as appropriate, for the condition being treated within six (6) months before the date that acupuncture is performed. The Board with advice from the Mississippi Council of Advisors in Acupuncture, may by rule modify the scope of the evaluation under this paragraph or the period during which treatment must begin under this paragraph.

The practitioner must obtain a written statement signed by the patient on a form prescribed by the Board stating that the patient has been evaluated by a physician within the prescribed time. The form must contain a clear statement that the patient should be evaluated by a physician for the condition being treated by the practitioner.

A practitioner may, without an evaluation from a physician, perform acupuncture on a patient for:

- A. smoking addiction;
- B. weight loss; or
- C. substance abuse, to the extent permitted by the Board, with advice from the Mississippi Council of Advisors in Acupuncture.

While treating a patient, the practitioner shall not make a medical diagnosis, but may provide pattern differentiation according to Traditional Chinese Medicine. If a patient's condition is not improving or a patient requires emergency medical treatment, the practitioner shall consult promptly with a physician.

Acupuncture may be performed in the state of Mississippi by a physician licensed to practice medicine and adequately trained in the art and science of acupuncture. Adequately trained will be defined as a minimum of 200 hours of AMA or AOA approved Category I CME in the field of acupuncture. Such licensed individuals wishing to utilize acupuncture in their practice may do so provided that any and all portions of the acupuncture treatment are performed by the person so licensed and no surrogate is authorized in this state to serve in his or her stead. The practice of acupuncture by a physician should follow the same quality of standard that the physician, or any other physician in his or her community, would render in delivering any other medical treatment. The applicable standard of care shall include all elements of a doctor-patient relationship. The elements of this valid relationship are:

- A. verify that the person requesting the medical treatment is in fact who they claim to be;
- B. conduct an appropriate examination of the patient that meets the applicable standard of care and is sufficient to justify the differential diagnosis and proposed therapies;
- C. establish a differential diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;
- D. discuss with the patient the diagnosis, risks and benefits of various treatment options and obtain informed consent;

- E. insure the availability of appropriate follow-up care including use of traditional medicine; and
- F. maintain a complete medical record.

The Board of Medical Licensure must have on file copies of required CME prior to any Mississippi licensed physician being approved to provide treatment by acupuncture. Licensees approved by the Mississippi State Board of Medical Licensure to practice acupuncture prior to January 2011 shall not be required to meet the aforementioned CME requirements.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.2 Definitions. For the purpose of Part 2625, Chapter 1 only, the following terms have the meanings indicated:

- A. “Board” means the Mississippi State Board of Medical Licensure.
- B. “Council” means the Mississippi Council of Advisors in Acupuncture.
- C. “NCCAOM” means the National Certification Commission for Acupuncture and Oriental Medicine.
- D. “ACAOM” means the Accreditation Commission of Acupuncture and Oriental Medicine.
- E. “CCAOM” means the Council of Colleges of Acupuncture and Oriental Medicine.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.3 Qualifications for Licensure. On or after July 1, 2009, applicants for acupuncture licensure must meet the following requirements:

- A. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
- B. Satisfy the Board that he or she is a citizen or permanent resident of the United States of America.
- C. Submit an application for license on a form supplied by the Board, completed in every detail with a recent photograph (wallet-size/passport type) attached. A Polaroid or informal snapshot will not be accepted.
- D. Pay the appropriate fee as determined by the Board.
- E. Present a certified copy of birth certificate or valid and current passport.
- F. Submit proof of legal change of name if applicable (notarized or certified copy of marriage or other legal proceeding).
- G. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as an acupuncturist.
- H. Provide favorable references from two (2) acupuncturists licensed in the United States with whom the applicant has worked or trained.
- I. Provide proof, directly from the institution, of successful completion of an educational program for acupuncturists that are in candidacy status or accredited by ACAOM, NCCAOM or its predecessor or successor agency that is at least three (3) years in duration and includes a supervised clinical internship to ensure that applicants with an education outside the US are recognized because of the NCCAOM review process for foreign applicants.

- J. Pass the certification examinations administered by the NCCAOM and have current NCCAOM Diplomate status in Acupuncture or Oriental Medicine that is consistent with one of the following:
 - 1. If taken before June 1, 2004, pass the Comprehensive Written Exam (CWE), the Clean Needle Technique portion (CNTP), and the Practical Examination of Point Location Skills (PEPLS).
 - 2. If taken on or after June 1, 2004, and before January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module, Point Location Module and Biomedicine Module.
 - 3. If taken on or after January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module with Point Location Module, and the Biomedicine Module.
- K. If applicant is a graduate of an international educational program, provide proof that the applicant is able to communicate in English as demonstrated by one of the following:
 - 1. Passage of the NCCAOM examination taken in English.
 - 2. Passage of the TOEFL (Test of English as a Foreign Language) with a score of 560 or higher on the paper based test or with a score of 220 or higher on the computer based test.
 - 3. Passage of the TSE (Test of Spoken English) with a score of 50 or higher.
 - 4. Passage of the TOEIC (Test of English for International Communication) with a score of 500 or higher.
- L. Provide proof of successful completion of a CCAOM-approved clean needle technique course sent directly from the course provider to the Board.
- M. Provide proof of current cardiopulmonary resuscitation (CPR) certification from either the American Heart Association or the American Red Cross.
- N. Provide proof of malpractice insurance with a minimum of \$1 million dollars in coverage.
- O. Submit fingerprints for state and national criminal history background checks.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.4 Practice Standards. Before treatment of a patient, the acupuncturist (if not a Mississippi licensed physician) shall be sure that the patient has been evaluated by a licensed physician for the condition to be treated within the last six (6) months. The Board, with advice from the Mississippi Council of Advisors in Acupuncture, may be rule modify the scope of the evaluation under this paragraph or the period during which treatment must begin under this paragraph and shall review the diagnosis for which the patient is receiving treatment.

The acupuncturist shall obtain informed consent from the patient after advising them of potential risks and benefits of acupuncture treatment plan.

The acupuncturist shall obtain a written statement signed by the patient on a form prescribed by the Board stating that the patient has been evaluated by a physician within the prescribed time.

The acupuncturist shall obtain a detailed medical history that would identify contraindications to acupuncture such as a bleeding disorder.

An acupuncture practitioner will use sterilized equipment that has been sterilized according to standards of the Centers for Disease Control and Prevention (CDC).

An acupuncturist shall comply with all applicable state and municipal requirements regarding public health.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.5 Patient Records. A licensed acupuncturist shall maintain a complete and accurate record of each patient. The record shall be sufficient to demonstrate a valid acupuncturist-patient relationship:

- A. verify that the person requesting the medical treatment is in fact who they claim to be;
- B. obtain a written statement signed by the patient on a form prescribed by the Board stating that the patient has been evaluated by a physician within the prescribed time;
- C. conduct and appropriate examination of the patient that meets the applicable standard of care and is sufficient to justify the differential diagnosis and proposed therapies;
- D. establish a differential diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;
- E. discuss with the patient the diagnosis, risks and benefits of various treatment options and obtain informed consent;
- F. insure the availability of appropriate follow-up care including use of traditional medicine; and
- G. maintain a complete medical record.

Patient records must be maintained for a period of seven (7) years from the date of last treatment or longer if required by future statute or regulation.

At patient's request, the acupuncturist shall provide the patient or other authorized person a copy of the acupuncture record. Refer to Administrative Code Part 2635 Chapter 10, Release of Medical Records.

Acupuncturists are subject to a peer review process conducted by the Council.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.6 Before treating a patient, the acupuncturist shall advise the patient that acupuncture is not a substitute for conventional medical diagnosis and treatment and shall obtain the informed consent of the patient.

On initially meeting a patient in person, the acupuncturist shall provide in writing the acupuncturist's name, business address, and business telephone number, and information on acupuncture, including the techniques that are used.

While treating a patient, the acupuncturist shall not make a diagnosis. If a patient's condition is not improving or a patient requires emergency medical treatment, the acupuncturist shall consult promptly with a physician.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.7 Duty to Notify Board of Change of Address. Any acupuncturist who is licensed to practice as an acupuncturist in this state and changes their practice location or mailing address shall immediately notify the Board in writing of the change. Failure to notify within 30 days could result in disciplinary action.

The Board routinely sends information to licensed acupuncturists. Whether it be by U.S. Mail or electronically, it is important that this information is received by the licensee. The licensure record of the licensee should include a physical practice location, mailing address, email address and telephone number where the Board can correspond with the licensee directly. The Board discourages the use of office personnel's mailing and email addresses as well as telephone numbers. Failure to provide the Board with direct contact information could result in disciplinary action.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.8 Continuing Education.

- A. Every acupuncturist must earn or receive not less than thirty (30) hours of acupuncture related continuing education courses as precedent to renewing their license for the next fiscal year. This thirty (30) hours is per two-year cycle. Excess hours may not be carried over to another two-year cycle. *For the purpose of this regulation, the two-year period begins July 1, 2010, and every two years thereafter.* Continuing education courses must be sponsored and/or approved by one of the following organizations:
 1. Mississippi Council of Advisors in Acupuncture
 2. Mississippi Oriental Medicine Association
 3. American Society of Acupuncturists
 4. National Certification Commission for Acupuncture and Oriental Medicine
 5. American Acupuncture Council
 6. American Board of Oriental Reproductive Medicine
- B. All persons licensed as acupuncturists must comply with the following continuing education rules as a prerequisite to license renewal.
 1. Acupuncturists receiving their initial license to perform acupuncture in Mississippi after June 30 are exempt from the minimum continuing education requirement for the two-year period following their receiving a license. The thirty (30) hour continuing education certification will be due within the next two-year cycle.
 2. The approved hours of any individual course or activity will not be counted more than once in a two (2) year period toward the required hour total regardless of the number of times the course or activity is attended or completed by any individual.
 3. The Board may waive or otherwise modify the requirements of this rule in cases where there is illness, military service, disability or other undue hardship that prevents a license holder from obtaining the requisite number of continuing education hours. Requests for waivers or modification must be sent in writing to the Executive Director prior to the expiration of the renewal period in which the continuing education is due.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.9 Violations. Any acupuncturist who falsely attests to completion of the required continuing education may be subject to disciplinary action pursuant to Mississippi Code, Section 73-71-33 and 73-71-35.

Any acupuncturist that fails to obtain the required continuing education may be subject to disciplinary action pursuant to Mississippi Code, Section 73-71-33 and 73-71-35, and may not be allowed to renew license. If continuing education deficiencies are discovered during an audit of the licensee, the licensee shall be suspended from practice for the longer of (i) a period of 3 months or (ii) until deficiencies are remedied. Any licensee suspended as a result of a continuing education audit may request a hearing for the purpose of appealing the suspension. Suspension as a result of falsified certification of continuing education shall begin upon determination of the false certification and shall not require notice or hearing as described below.

Continuing education obtained as a result of compliance with the terms of the Board Orders in any disciplinary action shall not be credited toward the continuing education required to be obtained in any two (2) year period.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.10 Renewal Schedule. The license of every person licensed to practice as an acupuncturist in the state of Mississippi shall be renewed annually.

On or before May 1 of every year, the State Board of Medical Licensure shall notify every acupuncturist to whom a license was issued or renewed during the current licensing period of the forthcoming annual renewal of license. The notice shall provide instructions for obtaining and submitting applications for renewal. The applicant shall obtain and complete the application and submit it to the Board in the manner prescribed by the Board in the notice before June 30 with the renewal fee of an amount established by the Board. The payment of the annual license renewal fee shall be optional with all acupuncturists over the age of seventy (70) years. Upon receipt of the application and fee, the Board shall verify the accuracy of the application and issue to applicant a license of renewal for the ensuing one (1) year period, beginning July 1 and expiring June 30 of the succeeding licensure period.

An acupuncturist practicing in Mississippi who allows a license to lapse by failing to renew the license as provided in the foregoing paragraph may be reinstated by the Board on satisfactory explanation for such failure to renew, by completion of a reinstatement form, and upon payment of the renewal fee for the current year. If the license has not been renewed within ninety (90) days after its expiration, the renewal shall be assessed a late fee of \$200.

Any acupuncturist who allows a license to lapse shall be notified by the Board within thirty (30) days of such lapse.

Any acupuncturist who fails to renew a license within four (4) years after its expiration may not renew that license. The license will become null and void and the acupuncturist will have to apply for and obtain a new license.

Any person practicing as an acupuncturist during the time a license has lapsed shall be considered an illegal practitioner and shall be subject to Mississippi Code, Section 73-71-33 and 73-71-35.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.11 Professional Ethics. All license holders shall comply with the Code of Ethics adopted by the NCCAOM except to the extent that they conflict with the laws of the State of Mississippi or the rules of the Board. If the NCCAOM Code of Ethics conflicts with state law or rules, the state law or rules govern the matter. Violation of the Code of Ethics or state law or rules may subject a license holder to disciplinary action pursuant to Part 2625, Rule 1.10.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.12 Disciplinary Proceedings.

A. Hearing Procedure and Appeals

No individual shall be denied a license or have a license suspended, revoked or restriction placed thereon, unless the individual licensed as an acupuncturist has been given notice and opportunity to be heard. For the purpose of notice, disciplinary hearings and appeals, the Board hereby adopts and incorporates by reference all provisions of the “Rules of Procedure” now utilized by the Board for those individuals licensed to practice medicine in the state of Mississippi.

B. Reinstatement of License

1. A person whose license to practice as an acupuncturist has been revoked, suspended, or otherwise restricted may petition the Mississippi State Board of Medical Licensure to reinstate their license after a period of one (1) year has elapsed from the date of the revocation or suspension. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Sections 93-11-157 or 93-11-163, as the case may be.
2. The petition shall be accompanied by two (2) or more verified recommendations from physicians or acupuncturists licensed by the Board of Medical Licensure to which the petition is addressed and by two (2) or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed and such facts as may be required by the Board of Medical Licensure.

The petition may be heard at the next regular meeting of the Board of Medical Licensure but not earlier than thirty (30) days after the petition was filed. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he or she is under probation or parole. The hearing may be continued from time to time as the Board of Medical Licensure finds necessary.

3. In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Board of Medical Licensure may investigate and consider all activities of the petitioner since the disciplinary action was taken against him or her, the offense for which he or she was disciplined, their activity during the time their license was in good standing, their general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.13 Impaired Acupuncturists. Any individual licensed to practice as an acupuncturist, shall be subject to restriction, suspension, or revocation in the case of disability by reason of one or more of the following:

- A. mental illness, or
- B. physical illness, including but not limited to deterioration through the aging process, or loss of motor skills
- C. excessive use or abuse of drugs, including alcohol

If the Board has reasonable cause to believe that an acupuncturist is unable to practice with reasonable skill and safety to patients because of one or more of the conditions described above, referral of the acupuncturist shall be made, and action taken, if any, in the manner as provided in Sections 73-25-55 through 73-25-65, including referral to the Mississippi Professionals Health Program, sponsored by the Mississippi State Medical Association.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.14 Use of Professional Titles. A licensee shall use the title “Acupuncturist” or “Licensed Acupuncturist,” “Lic. Ac.,” or “L.Ac.,” immediately following his/her name on any advertising or other materials visible to the public which pertain to the licensee’s practice of acupuncture. Only persons licensed as an acupuncturist may use these titles. A licensee who is also licensed in Mississippi as a physician, dentist, chiropractor, optometrist, podiatrist, and/or veterinarian is exempt from the requirement that the licensee’s acupuncture title immediately follow his/her name.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.15 Acupuncture Advertising. Misleading or Deceptive Advertising. Acupuncturists shall not authorize or use false, misleading, or deceptive advertising, and, in addition, shall not engage in any of the following:

- A. Hold themselves out as a physician or surgeon or any combination or derivative of those terms unless also licensed by the Board of Medical Licensure as a physician as defined under the Mississippi Medical Practice Act.
- B. Use the terms "board certified." Acupuncturists may use the term “certified” provided the advertising also discloses the complete name of the board which conferred the referenced certification.
- C. Use the terms "certified" or any similar words or phrases calculated to convey the same meaning if the advertised certification has expired and has not been renewed at the time the advertising in question was published, broadcast, or otherwise promulgated.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.16 Sale of Goods from Practitioner’s Office. Due to the potential for patient exploitation in the sale of goods, acupuncturists should be mindful of appropriate boundaries with patients, should avoid coercion in the sale of goods in their offices, and should not engage in exclusive distributorship and/or personal branding.

Acupuncturists should make available disclosure information with the sale of any goods in order to inform patients of their financial interests.

Acupuncturists may distribute goods free of charge or at cost in order to make such goods readily available.

Acupuncturists may make available for sale in their offices durable medical goods essential to the patient's care and non-health related goods associated with a charitable organization.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.17 Effective Date of Rules. The above rules pertaining to the practice of acupuncturists shall become effective October 17, 2009.

Adopted January 20, 2000; amended October 17, 2009; amended March 24, 2011; amended July 10, 2014; amended March 16, 2017; and amended July 20, 2017.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).