

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-72
Hawaii Administrative Rules

MM DD, YYYY

1. Chapter 16-72, Hawaii Administrative Rules, entitled "Acupuncture Practitioners", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 72

ACUPUNCTURE PRACTITIONERS

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§16-72-23	Verification of education and training
§16-72-24	Repealed
§16-72-25	Documents in foreign language
§16-72-26	Sufficiency of documents
§16-72-27	Repealed
§16-72-28	Demand for hearing
§16-72-29	Repealed

Subchapter 6 Examinations

§16-72-33	Examination
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§16-72-35	Language
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§16-72-39	Repealed
§16-72-40	Repealed
§16-72-41	Repealed
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Subchapter 7 License Renewal

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§16-72-57	Use of titles
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Subchapter 11 Oral Testimony

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SUBCHAPTER 1

GENERAL PROVISIONS

§16-72-1 Repealed. [R 12/30/82]

§16-72-2 Objective. This chapter is intended to clarify and implement chapter 436E, Hawaii Revised Statutes ("HRS"), to the end that the provisions thereunder may be best effectuated and the public interest most effectively served. [Eff 3/12/76; am and ren §16-72-2, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp 10/26/00; comp] (Auth: HRS §436E-7)
(Imp: HRS §436E-7)

SUBCHAPTER 2

DEFINITIONS

§16-72-3 Definitions. ~~[The definition of terms as appearing in chapter 436E, HRS, shall be adopted by reference. In addition, as used in this chapter, the following definitions shall be included:]~~ As used in this chapter:

"Accreditation Commission on Acupuncture and Herbal Medicine" is an independent accrediting body

that is recognized by the United States Department of Education ("USDOE") as the entity, in the United States, that is responsible for accrediting education programs for the preparation of acupuncture and herbal Medicine practitioners and professional post-graduate doctoral programs in acupuncture and herbal medicine.

"Accredited acupuncture program" means a professional program in acupuncture and herbal medicine that was accredited or recognized as a candidate for accreditation by the Accreditation Commission on Acupuncture and Herbal Medicine, its predecessor, or its successor entity.

"Acupuncture injection therapy", also known as point injection therapy, intra-muscular injection therapy, biopuncture, or aquapuncture, is a modern adjunctive acupuncture medicine technique in which a sterile liquid agent is injected into acupuncture points (including ashi trigger points) to promote, maintain or restore health and to prevent disease. It uses hypodermic needle techniques at specific acupuncture point locations to produce successful clinical outcomes in accordance with acupuncture medicine.

"Acupuncture medicine" also known as Traditional Chinese Medicine, Traditional Oriental Medicine, East Asian Medicine, and Kanpo, is a practice that identifies the pattern of disharmony in each patient and then builds an individualized treatment plan. It includes the practice of acupuncture with adjunctive therapies including but not limited to manual, mechanical, electrical, light, sound, electromagnetic, thermal therapy, herbal and nutraceutical medicines, lifestyle and nutritional counseling, movement, and other traditional and modern techniques.

"Acupuncture needle" means [a straight, slender ~~rod~~] an FDA-approved Class II medical device which is a sterile filiform needle of various [length] lengths and [diameter,] gauges, tapered to a [sharp] point at one end for piercing or non-invasive stimulation of the skin, [with one] and the opposite end for manipulation or maintaining the needle in place [~~, and inserted by an acupuncture practitioner into~~

~~acupuncture points on the human body. A staple is not an acupuncture needle] .~~

"Acupuncture practitioner" or "acupuncturist" means a person holding a valid license issued by the board of acupuncture in the State.

~~["Approved post secondary school" or "post secondary school" means:]~~ "Acupuncture school" means:

- (1) An institute, school, or college accredited by or recognized as a candidate for accreditation by an accrediting body recognized by the United States Department of Education [÷] for professional acupuncture and herbal medicine and post-professional programs; or
- (2) An institute, school, or college which, at the time the applicant completed the acupuncture courses, was accredited or a candidate for accreditation by an accrediting body recognized by the United States Department of Education; or
- (3) ~~[An institute, school or college whose curriculum is approved by the board, but which was not accredited or recognized as a candidate for accreditation because accreditation in acupuncture or another field of medical study was not yet available.]~~ In the case of a foreign school, acupuncture school means an institute, school, or college which is licensed, approved, or accredited by the appropriate governmental authority or an agency recognized by the governmental authority of that country and whose curriculum is approved by the Board.

"Acupuncture student" means an individual who is currently enrolled in a professional accredited acupuncture and herbal medicine program.

~~["Approved post secondary school" in the case of a foreign school means an institute, school or college which is licensed, approved, or accredited by the appropriate governmental authority or an agency~~

~~recognized by a governmental authority of that country and whose curriculum is approved by the board.]~~

~~["Approved school", "school approved by the board", or similar words or phrases used in reference to an institute, school, college, or program of acupuncture or traditional Oriental medicine that includes acupuncture means:~~

- ~~(1) For a person who files an application with the board prior to September 1, 2000, an institute, school, college, or program of acupuncture, or traditional Oriental medicine which, at the time of the applicant's graduation, is licensed, approved, a candidate for accreditation, or accredited by the appropriate governmental authority or an agency recognized by a governmental authority in that jurisdiction, state, or country and whose curriculum is approved by the board; or~~
- ~~(2) For a person who files an application with the board on or after September 1, 2000, an institute, school, college, or program of acupuncture or traditional Oriental medicine, which, at the time of the applicant's graduation, is accredited or recognized as a candidate for accreditation by any acupuncture or traditional Oriental medicine accrediting body recognized by the United States Department of Education;~~

~~Provided that "approved school" in the case of a foreign school means an institute, school, college, or program with a formal program in the science of acupuncture or traditional Oriental medicine which is licensed, approved, or accredited by the appropriate governmental authority or an agency recognized by a governmental authority in that country and whose curriculum is approved by the board.]~~

"Ashi needling", also known as "dry needling", "motor point needling", "intramuscular needling", and "myofascial trigger point needling" is an acupuncture technique that involves the insertion and retention or

non-retention of thin, non-medicated solid filiform needles into the body, muscles or connective tissues.

"Auricular acupuncture" is a diagnostic and a treatment system that stimulates specific acupuncture points with needle insertion, magnets or pellets on the external ear surface. It stimulates autonomic nervous system to maintain homeostasis, control pain and support detoxification.

"Board" means the board of acupuncture.

"Contact hour" or "hour" means a minimum of fifty minutes of organized classroom instruction or practical clinical training.

"Cupping" is a vasopneumatic therapy in which cups are applied to the body either with heat or manual vacuum suction as a way of improving circulation, releasing subcutaneous fascial and muscular adhesions, and relieving muscle pain. Cupping may involve the intentional bleeding of the skin prior to cup application.

"Director" means the director of the department of commerce and consumer affairs.

"Direct supervision" means that the supervising licensee is physically present during an intern's treatment of a patient. The licensee shall supervise and provide guidance to the intern in the diagnosis and treatment strategy of the patient.

"Functional disorder" means a condition of the human body in which the symptoms cannot be referred to any organic lesion or change of structure, as opposed to an organic disorder.

"Gua sha" is an instrument-assisted unidirectional press-stroking of a lubricated area of the body surface to intentionally create transitory therapeutic petechiae called 'sha' representing extravasation of blood in the subcutis as well as providing a deep stretch and release of the connective tissue around tense and tight muscles.

"Herbal medicine" means the use of a formula or single herbal remedy to promote, maintain and restore health. It includes the use of naturally occurring substances of botanical, animal, or mineral origin in

accordance with good manufacturing practice guidance. It does not include the use of controlled substances.

"Laser acupuncture" means utilizing Class II Low Level FDA approved cold laser or biostimulation laser to promote biological function, regenerate tissue, reduce inflammation and alleviate pain.

"Lifestyle and dietary consult" incorporates traditional nutritional therapy concepts of food as medicine, a concept that emphasizes the importance of a food's character with balanced food consumption. Also includes herbal and nutritional supplements, as well as environmental factors, meditation, movement and exercise.

"Moxibustion" means the process of heating moxa, traditionally artemisia vulgaris, on meridians or points on the body with the intent to produce analgesia, support the immune system, and modulate bodily systems.

"NCCAOM" means the "National Certification Commission for Acupuncture and Oriental Medicine" or its successor agency.

"Office" means the physical facilities used for the practice of acupuncture.

~~["Traditional Oriental medicine" means the system of the healing art which places the chief emphasis on the flow and balance of energy in the human body as being the most important factor in maintaining the well-being of the body in health and disease and includes the practice of acupuncture and herbal medicine.]~~

"Tui na" is a hands-on body treatment utilizing specific manual techniques involving manipulation of muscles, tendons, joints and bones to regulate energy and blood flow, relieve pain, and improve body dynamics. [Eff 3/12/76; am and ren §16-72-3, 6/22/81;

am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp 10/26/00; am and comp

] (Auth: HRS §436E-7) (Imp: HRS

§436E-7)

SUBCHAPTER 3

AUTHORIZED PRACTICE; SCOPE OF PRACTICE; LICENSE

§16-72-4 Authorized practice of acupuncture. An acupuncture practitioner is authorized to ~~conduct~~ examine and diagnose in accordance with traditional and modern practices for the purpose of treatment ~~of the human body~~ by ~~means of stimulation of a certain acupuncture~~ piercing or stimulating, or both, a point or points ~~for the purpose of controlling and regulating~~ to regulate neurovascular, immunological, endocrine and pain pathways and the flow and balance of energy ~~in the body~~ . The practice includes ~~the techniques of piercing the skin by inserting needles and point stimulation by the use of~~ cutaneous or invasive stimulation of points on the skin with needles. Techniques included are acupressure, electrical, mechanical, thermal therapy, moxibustion, cupping, ~~or~~ manual therapy and myofascial release such as tui na and gua sha, laser acupuncture, acupuncture injection therapy, auricular acupuncture, lifestyle and dietary consultation, and traditional therapeutic means ~~[-]~~ , including prescribing and dispensing herbal medicine. [Eff 3/12/76; am and ren §16-72-4, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §436E-7) (Imp: HRS §436E-2)

§16-72-5 Scope of practice of acupuncture. Acupuncture is used in a wide range of treatment. ~~[However, the board recognizes that guidelines on the]~~ The scope of practice of an acupuncture practitioner ~~[should be imposed and establishes the following permissible practices of authorized treatment which]~~ consists of treatment for pain relief and analgesia;

functional and musculoskeletal disorders, including functional components of diseases; and the maintenance of well-being, promotion of health, and physiological balance. Telehealth is allowed. Permanently implanted needles are not allowed. [Eff 3/12/76; am and ren §16-72-5, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §436E-7) (Imp: HRS §§436E-2, 436E-7)

§16-72-6 Records. A licensee shall keep accurate and secure records of each patient the licensee treats. Hard copy records shall be stored in a locked cabinet. Electronic records shall be digitally secure. The records shall include the name of the patient, date of birth, the date or dates treatment was performed, the indication and nature of treatment given, supplements and herbal prescriptions and any other relevant data deemed important by the licensee. Records shall be [~~kept on file for a minimum of seven years~~] maintained in accordance with applicable law and shall be open to inspection at any time by the board or [~~its~~] a duly authorized representative. [Eff 3/12/76; am and ren §16-72-6, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; comp 10/26/00; am and comp] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-7 Repealed. [R 10/26/00]

§16-72-8 Display of license. The current license certificate shall be conspicuously displayed in the office of practice. [Eff 3/12/76; am and ren §16-72-8, 6/22/81; comp 12/30/82; comp 11/20/86; comp

11/25/88; comp 10/26/00; am and comp]
(Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-9 Change of address. A licensee shall notify the board of any change of address within thirty days of the change. [Eff 3/12/76; am and ren §16-72-9, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88; comp 10/26/00; comp] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-10 Repealed. [R 10/26/00]

§16-72-11 [~~Supervision and functions of an acupuncturist intern in clinical practice.~~ Acupuncture student intern in clinical practice. [~~(a) No licensee shall allow an acupuncturist intern to perform acupuncturist treatment without the licensee's direct supervision.~~] An acupuncturist student intern may engage in the practice of acupuncturist only if the student intern is under the on-site direct supervision of the licensee who is registered with the board to supervise the student intern. The clinic and supervising licensee must be under the authority of the acupuncturist school. [~~Direct supervision means that the licensee is physically present prior to, during, and after the intern's treatment of a patient, by instructing and providing active guidance to the intern in the diagnosis and treatment of the patient. In addition, the licensee shall ensure that:~~

- ~~(1) All patients shall be notified and shall consent to treatment by an acupuncturist intern; and~~
- ~~(2) Every acupuncturist intern under the licensee's supervision shall wear a conspicuously placed name tag stating the~~

~~person's name and the words "acupuncture intern." The words "acupuncture intern" shall have letters at least one half inch high.~~

~~(b) Acupuncture services rendered by an acupuncture intern may include the items delineated in the scope of practice of acupuncture as set forth in section 16-72-5.~~

~~(c) Any violation of this section shall constitute professional misconduct.] [Eff and comp 10/26/00; am and comp] (Auth: HRS §436E-7) (Imp: HRS §§436E-2, 436E-3.6, 436E-7)~~

§16-72-12 Duties and minimum standards of a supervising acupuncturist/acupuncture practitioner.

(a) A supervising acupuncturist/acupuncture practitioner shall:

- (1) Supervise all acupuncture treatments provided by an acupuncture student intern;
- (2) Be responsible for managing all aspects of the acupuncture treatment provided by the acupuncture student intern;
- (3) Permit only individuals with a current student intern permit to engage in the practice of acupuncture in the clinic of the accredited school program;
- (4) Inform all patients that treatment will be provided by a student intern;
- (5) Ensure that every student intern wears a name tag that identifies the student by their name and the term "acupuncture student intern". The term "acupuncture student intern" shall be at least one-half of one inch in height;
- (6) Any violation of this section shall constitute professional misconduct in violation of this chapter and chapter 436E, HRS. [Eff and comp] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

SUBCHAPTER 4

EDUCATION AND TRAINING REQUIREMENTS

§16-72-14 Formal education and training requirements. [~~(a) For applicants applying before September 1, 2000:~~

- ~~(1) An applicant shall submit satisfactory proof of graduation from an approved school, and satisfactory proof of completing a course of study of formal education and clinical training consisting of not less than one thousand five hundred hours.~~
- ~~(2) To satisfy the formal educational requirements, the applicant shall complete a course of study resulting in the award of a certificate or diploma, consisting of not less than two academic years (not less than six hundred hours) of study of acupuncture or traditional Oriental medicine. The course of study shall cover, but shall not be limited to, the following subjects:~~
 - ~~(A) History and philosophy of traditional Oriental medicine (Nei Ching, Taoism, Chi and Hsieh, Yin and Yang, and others);~~
 - ~~(B) Traditional human anatomy, including location of acupuncture points;~~
 - ~~(C) Traditional physiology, including the five elements organ theory;~~
 - ~~(D) Traditional clinical diagnosis, including pulse diagnosis;~~
 - ~~(E) Pathology, including the six Yin and seven Chin;~~
 - ~~(F) Laws of acupuncture (mother and son, husband and wife, and five elements);~~
 - ~~(G) Classification and function of points;~~

- ~~(H) Needle techniques;~~
 - ~~(I) Complications;~~
 - ~~(J) Forbidden points;~~
 - ~~(K) Resuscitation;~~
 - ~~(L) Safety and precautions;~~
 - ~~(M) Use of electrical devices for diagnosis and treatment;~~
 - ~~(N) Public health and welfare;~~
 - ~~(O) Hygiene and sanitation;~~
 - ~~(P) Oriental herbal studies; and~~
 - ~~(Q) Clinical acupuncture practice.~~
- ~~(3) To satisfy the clinical training requirements, the applicant shall complete a course of training consisting of not less than twelve months (not less than nine hundred hours) of clinical internship training under the direct supervision of a licensed acupuncturist. The clinical internship training requirements may be obtained from a licensed acupuncturist at an approved school or from another clinical setting, from a licensed acupuncturist in private practice, or from any combination thereof. The licensed acupuncturist providing direct supervision shall:~~
- ~~(A) Have been licensed and actively practicing for a period of not less than five years prior to the start of the applicant's clinical internship training; and~~
 - ~~(B) Have had a current, valid, and unencumbered license during the course of supervision.~~

~~(b) Notwithstanding the requirements of subsection (a), an applicant who started training prior to December 31, 1984, in a school approved by the board prior to December 31, 1984, and who completed the required training by December 31, 1989, and who files an application with the board before September 1, 2000, may qualify for licensure, provided that the applicant meets the requirements for examination and licensure as provided in chapter 436D,~~

~~HRS, and rules adopted by the board as they existed on December 31, 1984, so long as the school has not altered its program so as to lower standards for completion of the program, and provided the applicant submits satisfactory proof of graduation from an approved school, and satisfactory proof of completing a course of study of formal education and clinical training consisting of at least one thousand fifty-six hours.~~

- ~~(1) To satisfy the formal education requirements, the applicant shall have completed a course of study consisting of a minimum duration of eighteen months (at least five hundred seventy-six hours) of acupuncture or traditional Oriental medicine. The course of study shall cover, but not be limited to, the subjects listed in paragraph (a) (2).~~
- ~~(2) To satisfy the clinical training requirements, the applicant shall have completed a course of training consisting of a minimum duration of six months (at least four hundred eighty hours) of clinical training in the practice of acupuncture on human subjects under the direct supervision of a licensed acupuncturist. The clinical training requirements may have been obtained at an approved school, or from another clinical setting, from a licensed acupuncturist in private practice or from any combination thereof.]~~

~~{(c)} (a) An applicant [applying on or after September 1, 2000,] shall submit satisfactory proof of graduation from an [approved] acupuncture school [and] with satisfactory proof of completing a course of study of formal education and clinical training [consisting of at least two thousand one hundred seventy-five hours.] as set forth below:~~

- ~~(1) To satisfy the formal educational requirements, the applicant shall complete an acupuncture and traditional [Oriental] herbal medicine course of study [consisting~~

~~of not less than one thousand five hundred fifteen hours. The course of study shall cover, but not be limited to, the subjects listed in paragraph (a)(2).] consistent with the requirements set forth in chapter 436E, HRS.]~~

- (2) To satisfy the clinical training requirements, the applicant shall complete a course of training ~~[consisting of not less than six hundred sixty hours]~~ as set forth below under the supervision of ~~[a licensed]~~ an acupuncturist consistent with the requirements set forth in chapter 436E, HRS. The clinical training requirements shall be obtained at an ~~[approved]~~ acupuncture school and shall not be obtained from ~~[a licensed]~~ an acupuncturist in private practice or another clinical setting unless it is a part of the clinical training curriculum of ~~[an approved]~~ such school. [Eff 3/12/76; am and ren §16-72-14, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §436E-7) (Imp: HRS §436E-5)

§16-72-15 Repealed. [R 11/20/86]

§16-72-16 Repealed. [R 12/30/82]

§16-72-17 Academic standards for the use of titles. (a) Subject to the provisions herein, a licensee may use an earned degree title if the licensee has completed their education in an ~~[approved]~~ acupuncture school ~~[that includes acupuncture coursework related to the degree]~~.

(b) A licensee who was previously authorized by the board to use a doctoral designation, "D.Ac.", may continue to use that designation [~~until September 1, 2000~~].

(c) [~~Commencing on September 1, 2000, no~~] No licensee shall be allowed to use the doctoral designations "Doctor of Acupuncture", "D.Ac.", or similar title unless that licensee has applied to and received the approval of the board to use the designation. In order for the licensee to receive the board's approval, the licensee shall demonstrate that the licensee has [÷

~~(1) An earned doctoral degree in acupuncture or traditional Oriental medicine from an approved school, or shall have completed a program approved by the board in the study or practice of acupuncture or traditional Oriental medicine that consisted of at least five hundred hours in advanced academic education and training that is beyond that required for the L.Ac. entry level. The five hundred hours may include any combination of topics covered in categories I and II listed in "Appendix A" dated April 6, 2000, entitled "Doctoral Program" for determination of credential evaluation; and~~

~~(2) At least one thousand five hundred hours of clinical training and practice of acupuncture, traditional Oriental herbal medicine, or traditional Oriental physiotherapy, which may include laboratory work and presentation of scholastic instruction, that was obtained after the person commenced the doctoral studies.] an earned doctoral degree in acupuncture medicine from an acupuncture school.~~

(d) In determining whether a licensee meets the requirements to use the doctoral designation, the board may require additional information including, but not limited to, the licensee's school catalog course descriptions and documentation of the clinical training and practice of acupuncture.

~~[(e) A licensee who has earned a doctoral title and who wishes to use a doctoral designation after September 1, 2000, shall comply with subsection (c) herein.]~~

~~(f) A licensee who has been awarded a "Ph.D." in acupuncture or traditional Oriental medicine shall be considered a non-practitioner and shall be permitted to use the designation of "Ph.D." in accordance with subsection 436E-13(b), HRS.]~~ [Eff and comp 10/26/00; am and comp] (Auth: HRS §436E-7)
(Imp: HRS §436E-13)

SUBCHAPTER 5

APPLICATION FOR LICENSE

§16-72-20 Applications. (a) Every person seeking a license to practice acupuncture or acupuncture and herbal medicine, or wishing to use any acupuncture title, in ~~[the]~~ this State shall file an application on a form provided by the board. All applications shall be completed in English and shall be accompanied by the following:

- (1) The application fee as provided in rules adopted by the director in accordance with chapter 91, HRS [~~, and payable in the form of a personal check, a cashier's check, or a postal money order~~];
- (2) Verification of the required education and training, as applicable;
- (3) An affidavit signed by the applicant stating that the applicant has read and shall abide by the board's laws and rules (chapter 436E, HRS, and this chapter) governing the practice of acupuncture; and
- (4) Any other documents deemed necessary by the board.

(b) An application for a license may be filed at any time by an applicant who has taken and passed the examination identified in section 16-72-33 and shall be accompanied by the items required in subsection (a). The applicant shall be responsible for having the testing contractor verify, directly to the board, that the applicant has ~~[passing score of]~~ passed the examination ~~[as required in section 16-72-36]~~. [Eff 3/12/76; am and ren §16-72-20, 6/22/81; comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §436E-7) (Imp: HRS §§436E-5, 436E-13)

§16-72-20.1 Application for an acupuncture

intern permit. (a) An application for a permit to work for a period of four years or until graduation, whichever comes first, as an acupuncture intern under the direct supervision of a Hawaii licensed acupuncture practitioner may be filed with the board at any time and shall be accompanied by the required fee. The board may delegate to the board's executive officer the authority to issue an acupuncture intern permit to qualified applicants.

(b) An applicant shall provide verification of the following to the board:

- (1) Evidence that the applicant has satisfactorily completed at least three semesters of instruction at an approved school and is currently enrolled in ~~[or is a graduate of]~~ an ~~[approved]~~ acupuncture school;
- (2) A copy of the applicant's ~~[diploma or]~~ official transcript from an ~~[approved]~~ acupuncture school ~~[showing the applicant's date of graduation]~~ or a letter from the dean or registrar of an ~~[approved]~~ acupuncture school stating that the applicant has completed at least three semesters ~~[shall be submitted with the application]; and~~ and

(3) The name and license number of the supervising acupuncture practitioner [~~provided that effective September 1, 2000, the applicant shall also provide the name of the approved school through which the clinical training is being obtained~~] .

(c) An acupuncture intern permit may be reissued only once for a period not to exceed one year, upon written request to the board no less than forty-five days prior to expiration and payment of the required fee. [Eff and comp 10/26/00; am and comp] (Auth: HRS §436E-7) (Imp: HRS §436E-3.6)

§16-72-21 Repealed. [R 11/20/86]

§16-72-22 Repealed. [R 12/30/82]

§16-72-23 Verification of education and training. [~~(a) For an applicant applying before September 1, 2000, the following documents shall be submitted as proof of the education and training of the applicant, provided the requirements of subsection 16-72-14(a) or (b) are met, as applicable:~~

~~(1) Verification of academic or educational study and training at an approved school consisting of:~~

~~(A) A certified transcript received by the board directly from an approved school and a photostatic copy of the diploma, certificate, or other certified documents from an approved school bearing an official school seal evidencing completion of a program in acupuncture or traditional Oriental medicine which includes acupuncture,~~

~~and also a copy of the curriculum demonstrating the areas of study taken at an approved school; or~~

~~(B) If the school no longer exists or if the school's records have been destroyed for some plausible reason, applicant may submit a sworn affidavit so stating and shall name the school, its address, dates of enrollment and curriculum completed, and the board, in its discretion, may request the applicant also to provide verification from the appropriate governmental authority or an agency recognized by a governmental authority regarding the school's closing or of the unavailability of the school's records, and such other information and documents as the board may deem necessary; and~~

~~(C) A statement from the accrediting agency or appropriate governmental authority that the school is accredited or is a candidate for accreditation by an acupuncture accrediting agency recognized by the United States Department of Education, or that the school is licensed, approved, or accredited by the appropriate governmental authority or an agency recognized by a governmental authority in that jurisdiction, state, or country.~~

~~(2) Verification of clinical training consisting of:~~

~~(A) The name(s) of the licensed acupuncture practitioner(s) under whom the applicant served for the clinical training, the practitioner's license number, a verification of practitioner's dates of licensure, street address of business, the number~~

~~of hours, dates, and length of training completed by the applicant, and a description of training received by the applicant; and~~

~~(B) A certification signed by the acupuncturist practitioner under oath that applicant completed a course of clinical training under the practitioner's direction as required in paragraph 16-72-14(a)(3) or in paragraph 16-72-14(b)(2), as applicable; or~~

~~(C) If the practitioner is deceased or whereabouts not known, the applicant shall so state and shall submit a sworn affidavit certifying to the applicant's completion of clinical training and other documents as the board may deem necessary.]~~

~~[(b)] [For applicants applying on or after September 1, 2000, the]~~ The following documents shall be submitted as proof of the education and clinical training of the applicant at an ~~[approved]~~ acupuncture school provided they meet the requirements of ~~[paragraph]~~ section 16-72-14 ~~[(c):]~~ (a):

- (1) A certified transcript received directly from an ~~[approved]~~ acupuncture school and a ~~[photostatic]~~ copy of diploma, certificate, or other certified documents from an ~~[approved]~~ acupuncture school bearing an official school seal evidencing completion of a program in ~~[acupuncture or traditional Oriental medicine,]~~ acupuncture medicine, ~~[which includes acupuncture,]~~ and also a copy of the curriculum demonstrating the areas of study taken at an ~~[approved]~~ acupuncture school; or
- (2) If the school no longer exists or if the school's records have been destroyed for some plausible reason, the applicant may submit a sworn affidavit so stating and shall name the school, its address, dates of

enrollment and curriculum completed and shall also provide verification, from the acupuncture accrediting agency recognized by the United States Department of Education, or in the case of a foreign school, verification from the appropriate governmental authority or an agency recognized by a governmental authority, of the school's closing or of the unavailability of the school's records, and such other information and documents as the board may deem necessary; and

- (3) A statement from the accrediting agency or appropriate educational governmental authority that the school is accredited or is a candidate for accreditation by an acupuncture accrediting agency recognized by the United States Department of Education, or in the case of a foreign school, that the school is licensed, approved, or accredited by the appropriate educational governmental authority or an agency recognized by a governmental authority in that country.
[Eff 9/12/76; am and ren §16-72-23, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §436E-5)

§16-72-24 Repealed. [R 11/20/86]

§16-72-25 Documents in foreign language. All documents submitted in a foreign language shall be accompanied by an accurate translation in English. Each translated document shall bear the affidavit of the translator certifying that the translator is competent in both the language of the document and the English language and that the translation is a true

and complete translation of the foreign language original, and sworn to before a notary public. Translation of any document and any other expenses relative to a person's application shall be at the expense of the applicant. [Eff 3/12/76; am and ren §16-72-25, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88; comp 10/26/00; am and comp] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §436E-5)

§16-72-26 Sufficiency of documents. In all cases the board's decision as to the sufficiency of documentation shall be final. The board may request further proof of qualification and may also require a personal interview with the applicant to establish the applicant's qualification. [Eff 3/12/76; am and ren §16-72-26, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88; comp 10/26/00; comp] (Auth: HRS §436E-7) (Imp: HRS §436E-5)

~~[§16-72-27 **Deadline for filing application for a license.** The application for a license together with the accompanying documents shall be filed at least seventy-five days before the date of the examination.]~~
[Eff 3/12/76; am and ren §16-72-27, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp 10/26/00; R]

§16-72-28 Demand for hearing. Any person aggrieved by the denial or refusal of the board to issue, renew, restore, or reinstate a license, or by the denial or refusal of the board to permit the use of an academic designation shall submit a request for a contested case hearing pursuant to chapter 91, HRS, and ~~[Hawaii Administrative Rules ("HAR"),]~~ chapter 16-

201, HAR, the rules of practice and procedure, within sixty days of the date of the refusal or denial. Appeal to the circuit court under section 91-14, HRS, or any other applicable statute, may only be taken from the board's final order. [Eff 3/12/76; am and ren §16-72-28, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §§436B-24, 436E-7) (Imp: HRS §§436B-24, 436B-25, 436E-7)

§16-72-29 Repealed. [R 10/26/00]

SUBCHAPTER 6

EXAMINATIONS

§16-72-33 Examination. (a) ~~[Every applicant applying for a license to practice as an acupuncturist shall pass the National Certification Commission for Acupuncture and Oriental Medicine's (NCCAOM) written comprehensive examination or such other written examination as the board may determine.]~~ Effective July 2025, all applicants applying for a license as an acupuncturist shall pass all exams administered by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM), or its successor testing agency, necessary to obtain a Diplomate of Oriental Medicine or its equivalent as determined by the board.

(b) The examination shall be consistent with the practical and theoretical requirements of acupuncture practice as provided by chapter 436E, HRS, and this chapter. The examination shall stand on its own merits. An applicant shall pass the examination before the applicant can be licensed to practice acupuncture.

(c) The board may contract with an independent testing [~~contractor~~] agency to [~~provide~~] administer an examination for the board.

(d) Applicants with disabilities may be afforded special testing arrangements and accommodations provided proper application is made on a form supplied by the board and provided further that they qualify for such arrangements as determined by the board or its designee. [Eff 3/12/76; am and ren §16-72-33, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §§436E-5, 436E-7)

~~§16-72-34 Frequency. Examinations shall be conducted at least once a year. [Eff 3/12/76; am and ren §16-72-34, 6/22/81; comp 12/30/82; am and comp 11/20/86; comp 11/25/88; comp 10/26/00; R]~~

§16-72-35 Language. The examination shall be given in English; provided that the board may give the written examination in another language upon the applicant's request and subject to the availability of such an examination from the independent testing contractor. [Eff 3/12/76; am and ren §16-72-35, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp 10/26/00; comp] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §§436E-5, 436E-7)

~~[§16-72-36 Passing score. The passing score for the written comprehensive examination shall be that minimum score for entry level competency as determined and recommended by the board's testing contractor in accordance with standard psychometric procedures. The~~

~~passing score for such other written examination required by the board shall be determined by the board.]~~ [Eff 3/12/76; am and ren §16-72-36, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp 10/26/00; R]

§16-72-37 Repealed. [R 10/26/00]

§16-72-38 Repealed. [R 11/20/86]

§16-72-39 Repealed. [R 11/20/86]

§16-72-40 Repealed. [R 11/20/86]

§16-72-41 Repealed. [R 10/26/00]

§16-72-42 Repealed. [R 10/26/00]

SUBCHAPTER 7

LICENSE RENEWAL

§16-72-46 Renewal. (a) Application for renewal, regardless of the issuance date of the license, shall be made on a form provided by the board

on or before June 30 of each odd-numbered year and shall be accompanied by the appropriate renewal fee as provided in rules adopted by the director in accordance with chapter 91, HRS.

(b) For renewal, licensees must provide proof of a current, valid CPR (cardiopulmonary resuscitation) certification approved by the American Red Cross or the American Heart Association. [Eff 3/12/76; am and ren §16-72-46, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; comp 10/26/00; am and comp] (Auth: HRS §436E-7) (Imp: HRS §436E-9)

§16-72-47 Renewal due date. A renewal fee transmitted by mail shall be considered filed when due if the envelope bears a postmark of June 30 of each odd-numbered year or any prior date. Payment of the renewal fee shall be in the form of a personal check, a cashier's check, online payment, or a postal money order. [Eff 3/12/76; am and ren §16-72-47, 6/22/81; comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §436E-7) (Imp: HRS §436E-9)

§16-72-48 Failure to renew; forfeiture; restoration. Failure to pay the renewal fee when due shall constitute automatic forfeiture of the license. However, a license which has been forfeited for failure to pay the renewal fee on time may be restored ~~[within one year after the date of forfeiture upon compliance with the licensing renewal requirements provided by law and upon written application and payment of the appropriate restoration fees as provided in rules adopted by the director in accordance with chapter 91, HRS.]~~ [After one year from the date of forfeiture,] in accordance with chapter 436E, HRS, and any licensing renewal requirements

provided by law, when a written application and payment of the restoration fees as provided in the rules (adopted by the director in accordance with chapter 91, HRS) are submitted. If the license is not restored within the timeframe stated in chapter 436E, HRS, the license shall not be restored and the person shall be treated as a new applicant and shall meet all the requirements of a new applicant. [Eff 3/12/76; am and ren §16-72-48, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §436E-7) (Imp: HRS §§436B-14, 436E-9)

SUBCHAPTER 8

PUBLIC HEALTH AND SANITATION

§16-72-52 Office. When acupuncture is conducted in a building used for residential purposes, a room or rooms shall be set apart as an office for the practice and shall be used solely for this purpose. It shall be equipped with a washroom and toilet facilities. An acupuncture office may be inspected at any time during normal business hours by the board or any authorized employee of the department of commerce and consumer affairs. [Eff 3/12/76; am and ren §16-72-52, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88; comp 10/26/00; comp] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-53 Sanitation practices. Required practices shall include:

- (1) A fresh, disposable paper or a fresh sheet shall be used on the examining table for

- each patient; or a fresh disposable paper in the head area if treated in a chair;
- (2) Hands shall be washed with soap and water or minimum seventy per cent alcohol germicide before handling a needle and ~~[between]~~ before and after treatment of different patients;
 - (3) A piercing needle shall be ~~[previously unused and sterilized;]~~ disposable;
 - (4) A piercing disposable needle shall not be used more than once per treatment and shall be disposed of immediately after use in the manner prescribed in paragraph ~~[(8)]~~ (7) below;
 - (5) Skin, in the area of any acupuncture procedure, shall be thoroughly swabbed with germicidal solution before using any needles;
 - ~~[(6)]~~ ~~If the sterility of an unused needle or instrument has been compromised, it shall be sterilized at a minimum temperature of 250°F (or 121°C) for not less than thirty minutes at fifteen pounds of pressure per square inch before usage;~~
 - ~~[(7)]~~ (6) Prior to its usage on a patient, a reusable instrument, such as cups used in cupping, or a non-piercing acupuncture needle shall be sterilized [at a minimum temperature of 250°F (or 121°C) for not less than thirty minutes at fifteen pounds of pressure per square inch;] in an autoclave according to the manufacturer's specifications, or by a disinfectant agent;
 - ~~[(8)]~~ (7) All used needles for disposal shall be placed in a hazardous waste container that meets standards set by the department of health. All handling of the container, including but not limited to treating, transporting, and disposing of the container, shall conform with the laws and rules of the department of health; and

~~[(9)]~~ (8) Other reasonable sanitation procedures and practices recommended by governmental agencies or manufacturers shall be followed to protect the health and safety of patients and the public. [Eff 3/12/76; am and ren §16-72-53, 6/22/81; am and comp 12/30/82; comp 11/20/86; am and comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-54 Herbal disclosure. An acupuncture practitioner who dispenses custom or compounded herbal medicines must properly label, attach, and disclose the following information:

- (1) Patient's name;
- (2) Description of contents of herb(s) or formula;
- (3) Direction of usage;
- (4) Date when dispensed, dosage, and expiration date; and
- (5) Name and address of dispenser or provider.

All descriptions and literature shall be in English. These requirements do not apply to herbal medicines dispensed in their original containers with the original manufacturer's labeling. [Eff and comp] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

SUBCHAPTER 9

ADVERTISEMENT

§16-72-57 Use of titles. (a) An acupuncturist shall not misrepresent one's academic designation,

professional title, qualification, or affiliation in an advertisement.

~~[(b) A licensee who has been awarded an earned doctoral degree from an approved post-secondary school, post-secondary school, approved school, or school approved by the board, and who meets the academic standards set forth in section 16-72-17 may use the title "Doctor," "Dr.," "Doctor of Acupuncture," "D.Ac.," provided that the word "Acupuncturist" immediately follows the licensee's name.]~~

~~[(c)] (b) [A licensee who was previously approved by the board to use the doctoral title prior to adoption of this chapter may continue to use the designation until September 1, 2000.] In order to [continue to] use the doctoral title [after September 1, 2000,] the licensee shall apply for the use of [an academic] a professional degree title and shall provide proof to the board of meeting the academic standards of section 16-72-17. [The licensee's failure to apply and to meet the academic standards of section 16-72-17 by September 1, 2000, shall result in the loss of all rights to the continued usage of the doctoral title and the licensee shall immediately refrain from using the title.]~~

(c) A licensee who has earned a doctoral degree from an acupuncture school may use the post nominal title awarded in addition to "Doctor", "Dr.", "D.Ac." and "Doctor of Acupuncture." The post nominal title "D.Ac." shall follow the earned professional degree title. When "Doctor" or "Dr." is used preceding the licensee's name, then "Doctor of Acupuncture" or "D.Ac." must also be listed.

(d) A licensee who has a non-practitioner's doctorate including an honorary degree or titles in a field shall not use the title "Dr." or "doctor" in advertisements or other materials visible to the public pertaining to the acupuncture practice. [Eff 3/12/76; am and ren §16-72-57, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp 10/26/00; am and comp]
(Auth: HRS §§436E-7, 436E-13) (Imp: HRS §436E-13)

§16-72-58 Repealed. [R 11/20/86]

§16-72-59 Repealed. [R 11/20/86]

SUBCHAPTER 10

PRACTICE AND PROCEDURE

§16-72-63 Administrative practice and procedure.

The rules of practice and procedure shall be as provided in [~~HAR,~~] chapter 16-201, HAR, the rules of practice and procedure of the department of commerce and consumer affairs, which are incorporated by reference and made a part of this chapter. [Eff and comp 11/20/86; comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §§91-2, 436E-7) (Imp: HRS §§91-2, 436E-7)

SUBCHAPTER 11

ORAL TESTIMONY

§16-72-67 Oral testimony. (a) The board shall accept oral testimony on any item which is on the board's agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony is requested to notify the board

- no later than forty-eight hours prior to the meeting, and at that time shall state the item on which testimony is to be presented;
- (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
 - (3) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
 - (4) Persons presenting oral testimony, at the beginning of the testimony, shall identify themselves and the organization, if any, that they represent;
 - (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed; and
 - (6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.

(b) Nothing in this chapter shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another proceeding pending subject to the hearing relief, declaratory relief, or rule relief provisions of [~~HAR,~~ chapter 16-201~~-~~], HAR.

(c) Nothing in this chapter shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda." [Eff and comp 11/20/86; comp 11/25/88; am and comp 10/26/00; am and comp] (Auth: HRS §§92-3, 436E-7)
(Imp: HRS §92-3)

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material except source notes and other notes, is underscored.

3. Additions to update source notes and other notes to reflect amendments to sections are not bracketed, struck through, or underscored.

4. These amendments to and compilation of chapter 16-72, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on MM DD, YYYY, and filed with the Office of the Lieutenant Governor.

NADINE Y. ANDO
Director of Commerce and
Consumer Affairs

APPROVED AS TO FORM:

Christopher J.I. Leong
Deputy Attorney General