

BOARD OF ACUPUNCTURE
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

PUBLIC HEARING AGENDA

- Date:** November 20, 2024
- Time:** 1:00 p.m.
- In-Person Meeting Location:** King Kalakaua Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, HI 96813
- Virtual:** Virtual Videoconference Meeting – Zoom Meeting
(use link below)
https://dcca-hawaii.gov.zoom.us/j/88185184502?pwd=FDjlx7KNmklkxCFmUR3kQAIs_tBOzvp.1
- Phone:** (669) 900-6833
Meeting ID: 881 8518 4502
Passcode: 482783
- Agenda:** The agenda was posted on the State electronic calendar as required by Hawaii Revised Statutes (“HRS”) section 92-7(b)

If you wish to submit written testimony on any agenda item, please email your testimony to acupuncture@dcca.hawaii.gov or by hard copy mail to: Attn: Board of Acupuncture, P.O. Box 3469, Honolulu, HI 96801. We request submission of testimony at least 24 hours prior to the meeting to ensure that it can be distributed to the Board members.

INTERNET ACCESS:

To view the meeting and provide live oral testimony, please use the link at the top of the agenda. You will be asked to enter your name. The Board requests that you enter your full name, but you may use a pseudonym or other identifier if you wish to remain anonymous. You will also be asked for an email address. You may fill in this field with any entry in an email format, e.g., *****@***mail.com.

Your microphone will be automatically muted. When the Chairperson asks for public testimony, you may click the Raise Hand button found on your Zoom screen to indicate that you wish to testify about that agenda item. The Chairperson will individually enable each testifier to unmute their microphone. When recognized by the Chairperson, please unmute your microphone before speaking and mute your microphone after you finish speaking.

PHONE ACCESS:

If you cannot get internet access, you may get audio-only access by calling the Zoom Phone Number listed at the top on the agenda.

Upon dialing the number, you will be prompted to enter the Meeting ID which is also listed at the top of the agenda. After entering the Meeting ID, you will be asked to either enter your panelist number or wait to be admitted into the meeting. You will not have a panelist number. So, please wait until you are admitted into the meeting.

When the Chairperson asks for public testimony, you may indicate you want to testify by entering "*" and then "9" on your phone's keypad. After entering "*" and then "9", a voice prompt will let you know that the host of the meeting has been notified. When recognized by the Chairperson, you may unmute yourself by pressing "*" and then "6" on your phone. A voice prompt will let you know that you are unmuted. Once you are finished speaking, please enter "*" and then "6" again to mute yourself.

For both internet and phone access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to five minutes of testimony per agenda item.

If connection to the meeting is lost for more than 30 minutes, the meeting will be continued on a specified date and time. This information will be provided on the Board's website at <https://cca.hawaii.gov/pvl/boards/nursing/board-meeting-schedule/>.

Instructions to attend State of Hawaii virtual board meetings may be found online at <https://cca.hawaii.gov/pvl/files/2020/08/State-of-Hawaii-Virtual-Board-Attendee-Instructions.pdf>.

1. Call to Order of the Public Hearing
2. Introduction of Board Members
3. Purpose: Amendments to Chapter 16-72, Hawaii Administrative Rules ("HAR") – Acupuncture Practitioners
4. Notice of Public Hearing
5. Testimony

The Board Chairperson may place time limit on each testimony, pursuant to HAR §16-72-67(a)(5)

6. Procedures after Hearing:
 - A. Board will consider adoption of these rules at Board meeting to follow.
 - B. Rules, if adopted, will be sent to the Attorney General's office and the Governor's Office for approval.
 - C. Rules will remain at the Lieutenant Governor's Office for a period of 10 days after approval by the Governor before becoming final.

7. Conclusion of Public Hearing

11/14/2024

If you need an auxiliary aid/service or other accommodation due to a disability, contact Chelsea Fukunaga at (808)586-2698 or acupuncture@dcca.hawaii.gov as soon as possible, preferably by November 18, 2024. Requests made as early as possible have a greater likelihood of being fulfilled. Upon request, this notice is available in alternate/accessible formats

BOARD OF ACUPUNCUTRE
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

BOARD MEETING AGENDA

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- Time:** Immediately following the public hearing
- In-Person Meeting Location:** King Kalakaua Conference Room
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335 Merchant Street, 1st Floor
Honolulu, HI 96813
- Virtual:** Virtual Videoconference Meeting – Zoom Meeting
(use link below)
<https://dcca-hawaii-gov.zoom.us/j/86552594676?pwd=J8rkpiFajLQsFFG7oaVY6U7tlMwZGm.1>
- Phone:** (669) 900-6833
Meeting ID: 865 5259 4676
Passcode: 255342
- Agenda:** The agenda was posted on the State electronic calendar as required by Hawaii Revised Statutes (“HRS”) section 92-7(b)

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The Board may move into Executive Session to consider and evaluate personal information relating to individuals applying for licensure in accordance with Hawaii Revised Statutes (“HRS”) section 92-5(a)(1) and to consult with the Board’s attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities in accordance with Hawaii Revised Statutes (“HRS”) section 92-5(a)(4).

1. Roll Call, Quorum, Call to Order – HRS §92-3 Open Meetings and HAR §16-72-67
2. Approval of the Minutes of the Open Session and Executive Session Minutes of the August 19, 2024 Meeting
3. Applications
 - A. Ratifications

Acupuncturists

ACU-1443 Joan Y. Mak
ACU-1444 Ree Anna Gale

7. Adjournment

11/14/2024

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BOARD OF ACUPUNCTURE
Professional & Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: August 19, 2024

Time: 1:00 p.m.

In-Person Meeting Location: Queen Liliuokalani Conference Room
HRH King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, HI 96813

Virtual: Virtual Videoconference Meeting – Zoom Webinar

Members Present: Deborah McMenemy, L.Ac., D.A.O.M., Chair
Brooke Foreman, L.Ac., D.A.C.M., Vice Chair
Sherry Mizumoto, L.Ac., D.A.O.M.
Marta Rebella, Public Member

Excused: None.

Zoom Recording Link: <https://youtu.be/2TOJl143-cqA>

Staff Present: Risé Doi, Executive Officer (“EO”)
Christopher Leong, Deputy Attorney General (“DAG”)
Lorna Eugenio, Secretary
Johnny Li, Tech Support
Candace Ito, Supervising Executive Officer

Guest(s): Diana Ho
Wai Low
Cindy Chang

Agenda: The agenda for this meeting was posted on the State electronic calendar as required by HRS section 92-7(b).

A short video regarding virtual meetings was played to explain procedures for the virtual meeting and how members of the public can participate and interact with the Board during the meeting.

Call to Order: All Board members were present in person. After taking roll, a quorum was established, and Chair McMenemy called the meeting to order at 1:17 p.m.

Election of Officers: Chair McMenemy opened the floor for nominations for the position of Board Chair. Vice Chair Foreman nominated Chair McMenemy.

It was moved by Vice Chair Foreman, seconded by Ms. Rebella, voted on and unanimously carried to elect Deborah McMenemy as the Board's Chair.

Chair McMenemy opened the floor for nominations for the position of Board Vice Chair. Chair McMenemy nominated Dr. Foreman.

It was moved by Chair McMenemy, seconded by Dr. Mizumoto, voted on and unanimously carried to elect Brooke Foreman as the Board's Vice Chair.

Approval of
Minutes of the
June 13, 2024
Meeting:

Chair McMenemy asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

The following correction was made:

Page 3: "EO Doi noted that if the Board receives a RICO settlement agreement, she can submit the information to NCCAOM and to ANDD."

Upon a motion by Ms. Rebella, seconded by Vice Chair Foreman, it was voted on and unanimously carried to approve the open session minutes of June 13, 2024, with amendments.

Executive Officer's
Report:

a. Update on Hawaii Administrative Rules ("HAR") 16-72

EO Doi explained that she attended the Small Business Regulatory Review Board meeting on June 20, 2024. Dr. Foreman also attended virtually. EO Doi noted that the meeting went smoothly and that she submitted the rules draft to the Governor's Office for approval for public hearing. EO Doi and DAG Leong noted that the public hearing needs to be noticed 30 days in advance and is usually before the regular board meeting. EO Doi will keep the Board members updated when she receives approval to proceed with scheduling a public hearing. Wai Low asked if there will be a copy of the draft posted online for public viewing. EO Doi answered that the draft is usually posted once the public hearing notice is filed.

Applications:

Chair McMenemy asked if any members from the public would like to provide oral testimony on this agenda item. There were none.

Ratification List (see attached list):

Upon a motion by Vice Chair Foreman, seconded by Ms. Rebella, it was voted on and unanimously carried to ratify the following list of licenses that have been issued:

Interns

R-24605003	KENTARO BALL
R-24606002	JOHN KUO
R-24612004	SHANNON S SANCHEZ
R-23724001	LAHELA K HEKEKIA

Executive
Session:

It was moved by Ms. Rebella, seconded by Vice Chair Foreman, and unanimously carried to enter executive session at 1:32 p.m., in accordance with HRS §92-5(a)(1), to consider and evaluate personal information relating to individuals applying for professional licenses cited in HRS §26-9 and, pursuant to HRS §92-5(a)(4), to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.

At 2:27 p.m., it was moved by Vice Chair Foreman, seconded by Ms. Rebella, and unanimously carried to move out of executive session.

Applications:

1) Diana Ho

Upon a motion by Vice Chair Foreman, seconded by Dr. Mizumoto, it was voted on and unanimously carried to approve the agreement between DCCA and Diana Ho, in which the applicant must pass the NCCAOM Foundations of Oriental Medicine and Acupuncture with Point Location exam modules by December 31, 2024.

New Business:

a. None

Unfinished
Business:

a. None

Next Meeting:

October 3, 2024
1:00 p.m.

Virtual Videoconference Meeting – Zoom Webinar

and

In-Person Meeting Location: Queen Liliuokalani Conference Room
HRH King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813

Adjournment: With no further business to discuss, Chair McMenemy adjourned the meeting at 2:32 p.m.

Taken by:

/s/ Risé Doi

Risé Doi
Executive Officer

Reviewed by:

/s/ Risé Doi

Risé Doi
Executive Officer

08/07/2024

Minutes approved as is.

Minutes approved with changes; see minutes of _____

DRAFT

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

Subchapter 1 General Provisions

§16-72-1	Repealed
§16-72-2	Objective

Subchapter 2 Definitions

§16-72-3	Definitions
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Subchapter 3 Authorized Practice; Scope of Practice; License

§16-72-4	Authorized practice of acupuncture
§16-72-5	Scope of practice of acupuncture
§16-72-6	Records
§16-72-7	Repealed
§16-72-8	Display of license
§16-72-9	Change of address
§16-72-10	Repealed
§16-72-11	Acupuncture student intern in clinical practice
§16-72-12	Duties and minimum standards of a supervising acupuncturist/acupuncture practitioner

Subchapter 4 Education and Training Requirements

§16-72-14	Formal education and training requirements
§16-72-15	Repealed
§16-72-16	Repealed
§16-72-17	Academic standards for the use of titles

Subchapter 5 Application for License

§16-72-20	Applications
§16-17-20.1	Application for an acupuncture intern permit
§16-72-21	Repealed
§16-72-22	Repealed
§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
§16-72-34	Repealed
§16-72-35	Language
§16-72-36	Repealed
§16-72-37	Repealed
§16-72-38	Repealed
§16-72-39	Repealed
§16-72-40	Repealed
§16-72-41	Repealed
§16-72-42	Repealed

Subchapter 7 License Renewal

§16-72-46	Renewal
§16-72-47	Renewal due date
§16-72-48	Failure to renew; forfeiture; restoration

Subchapter 8 Public Health and Sanitation

§16-72-52	Office
§16-72-53	Sanitation practices
§16-72-54	Herbal disclosure

Subchapter 9 Advertisement

§16-72-57	Use of titles
§16-72-58	Repealed
§16-72-59	Repealed

Subchapter 10 Practice and Procedure

§16-72-63	Administrative practice and procedure
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Subchapter 11 Oral Testimony

§16-72-67 Oral testimony

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

(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

Acupuncturists of Hawaii

(A Hawaii Domestic Non-Profit Professional Entity)

100 N. Beretania Street, Suite 203
Honolulu, Hawaii 96817
<https://acupuncture808.org/>

808.888.0323 Ph
808.521.2271 Fax
info@acupuncture808.org

Board of Directors

John Abramson

October 31, 2024

Cindy Chang

To: Board of Acupuncture
DCCA-PVL State of Hawaii

Brandon Flewelling

Giuliana Gasparin

Re: **Strongly in Support for Proposed Amendments on HAR Chapter 16-72**
Scope of Practice, Education, and Training Requirements

Diana Ho

Dear Members of the Board,

Siriporn Jang

Wai H. Low

Samantha Preis

Antonio Provencio

Billy Schultze

Claire Song

Clara Wong

On behalf of Acupuncturists of Hawaii, I am writing to express our strong support for the proposed amendments to the scope of practice, education, and training requirements for acupuncturists in our state. We commend the board for its two decades of dedication and hard work developing and bringing these advancements to fruition.

Our association is in full support of the proposed amendments. We believe these changes will not only strengthen the educational foundation and clinical competencies of future practitioners but will also enhance the quality of care provided to our communities that meet the demands of modern healthcare.

The Mission of the Acupuncturists of Hawaii is to protect, promote, and advance the acupuncture profession within the state. We are committed to safeguarding the scope of practice for our members, providing continuing education, and advocating for policies that support the integrity and growth of the acupuncture integrative medicine field. Through collaboration and transparency, we strive to enhance the professional by ensuring that our services remain accessible and beneficial to the community.

Officers

Cindy Chang
President

Siriporn Jang
Vice-President

John Abramson
Secretary

Clara Wong
Treasurer

Thank you once again for your timeless commitment to our profession.
Sincerely,



Cindy M. Chang
President, Acupuncturists of Hawaii
info@acupuncture808.org
(808) 888-0323



Giuliana Gasparin
Association Coordinator

From: [REDACTED] on behalf of [Angela Wolfenberger](#)
To: [DCCA Acupuncture](#)
Subject: [EXTERNAL] Proposed changes to HAR Title 16 Chapter 72
Date: Wednesday, November 13, 2024 10:58:28 AM

CAUTION: This email originated from outside of Hawaii State Gov't / DCCA. Do not click links or open attachments unless you recognize the sender and are expecting the link or attachment.

To the administrators of the Acupuncture Credentialing Program, Hawaii Department of Commerce and Consumer Affairs, Mahalo for your attention,

I am a clinical registered dietitian nutritionist (RDN) licensed to practice in the state of Hawaii. In my role, I provide Medical Nutrition Therapy (MNT) to patients in my private practice, as well as formerly as a clinical dietitian for Queens Medical Center. I would like to provide comments regarding the proposed changes to the Hawaii Administrative Rules Title 16, Chapter 72.

In Hawaii, registered dietitian nutritionists (RDNs) are uniquely qualified to practice medical nutrition therapy (MNT) due to their extensive licensure and certification. Their expertise in MNT, a form of medical treatment, ensures the highest standard of care for patients.

Dietitians and nutritionists are experts in using food and nutrition to:

- Counsel clients on healthy eating habits and nutrition issues
- Plan and conduct nutritional programs or food service
- Promote health and manage disease

Medical nutrition therapy is a medical treatment. Like other non-physician practitioners providing medical treatments, registered dietitian nutritionists generally can practice MNT because of licensure and certification laws, which provide authority for RDNs to provide this medical service, as seen below:

Licensure (or Certification) by Endorsement of RDN Credential/Exemptions

[§448B-5] Licensure requirements. In addition to the application requirements provided by section 436B-10, the director shall adopt rules as deemed necessary for the licensure of dietitians to protect public health and safety, and may consider the following as minimum evidence that an applicant is qualified to be licensed:

- (1) The applicant received a baccalaureate degree or post-baccalaureate degree from a regionally accredited college or university with a major course of study in dietetics, human nutrition, food and nutrition, or food systems management, or academic requirements related thereto, approved by the commission on accreditation, or meets equivalent core requirements for the dietetics option at the University of Hawaii. In addition to basic dietetic principles of nutrition, human physiology, biochemistry, and behavioral and social sciences, course work shall include at least nine semester credits (or twelve quarter hours) relating to food science and food preparation. Applicants who have obtained their education outside of the United States and its territories shall have their academic degree validated by an agency authorized to validate foreign academic degrees as being equivalent to a baccalaureate, master's, or doctoral degree conferred by a regionally accredited college or university in the United States. Validation of a foreign degree shall include a verification statement of completion of the major course of study or related academic requirements, basic dietetic principles, and course work specified in this paragraph;
- (2) Satisfactorily complete a documented supervised practice experience component in dietetic

practice of not less than nine hundred hours approved by the commission on accreditation;
(3) Pass the registration examination for dietitians administered by the Commission on Dietetic Registration; and
(4) Submit a report of any disciplinary action relating to dietetics practice taken against the applicant in another jurisdiction.

An individual who provides evidence of current registration in the association [the American Dietetic Association] shall be deemed to have met the educational and supervised practice experience requirements of this section.

Licensure (or Certification) by Reciprocity or Endorsement of Another License [§448B-6] Licensure by endorsement. The director shall grant, upon application and payment of proper fees, licensure to a person who, at the time of application, holds a valid certification or license as a dietitian issued by another state, territory, or jurisdiction if the requirements for that certification or license are equal to, or greater than, the requirements of this chapter.

Acupuncturists educational requirements for licensure in Hawaii include:

“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: 72-7§16-72-14 (A) (B) (C) (D) (E) (F) (G) (H) (I) (J) (K) (L) History and philosophy of traditional Oriental medicine (Nei-Ching, Taoism, Chi and Hsieh, Yin and Yang, and others); Traditional human anatomy, including location of acupuncture points; Traditional physiology, including the five elements organ theory; Traditional clinical diagnosis, including pulse diagnosis; Pathology, including the six Yin and seven Chin; Laws of acupuncture (mother and son, husband and wife, and five elements); Classification and function of points; Needle techniques; Complications; Forbidden points; Resuscitation; Safety and precautions; (M) Use of electrical devices for diagnosis and treatment; (N) (O) (P) (Q) (3) Public health and welfare; Hygiene and sanitation; Oriental herbal studies; and Clinical acupuncture practice. 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 requirements for acupuncturist licensure do not include nutrition, and acupuncturists receive no training in medical nutrition therapy. For an acupuncturist to provide a nutrition consult to, say, a patient with advanced kidney, liver, or metabolic diseases could result in life threatening recommendations for the patient.

I am deeply concerned about the proposed changes to the Hawaii Administrative Rules Title 16 Chapter 72 . The expansion of acupuncture to include nutrition counseling, which is not addressed in the statute, could lead to significant harm for Hawaii citizens. The inclusion of 'lifestyle and dietary consult' that incorporates traditional nutritional therapy concepts of food as medicine, and the use of herbal and nutritional supplements, would, in my opinion, require a statutory change and put our citizens at risk.

I deeply appreciate your time and consideration in reviewing these concerns. Your attention to

this matter is crucial in ensuring the safety and well-being of Hawaii's citizens.

With Aloha,

Angela Wolfenberger, MS, RDN, LD/N
Registered/Licensed Clinical Dietitian/Nutritionist
State Policy Representative
Hawaii Academy of Nutrition and Dietetics (HAND)
Research Briefs Editor, WM DPG



From: [President HAND](#)
To: [DCCA Acupuncture](#)
Subject: [EXTERNAL] Comment/Testimony to Proposed Amendments to Hawaii Administrative Rules Chapter 16-72
Date: Tuesday, November 12, 2024 1:06:05 PM
Attachments: [HAND Comments Acupuncture Rules Nov 2024.pdf](#)

CAUTION: This email originated from outside of Hawaii State Gov't / DCCA. Do not click links or open attachments unless you recognize the sender and are expecting the link or attachment.

Dear Members of the Board of Acupuncture,

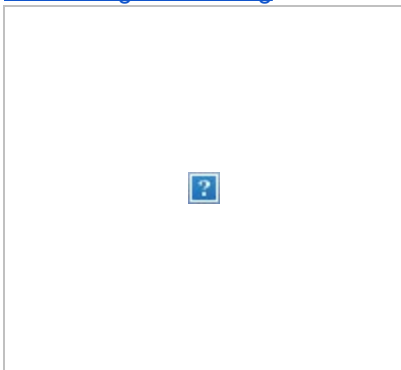
Please find attached written comments/testimony addressing the recently proposed amendments to the regulations governing the practice of acupuncture. Should you have any questions or concerns regarding this testimony, please do not hesitate to reach out to me at president@eatrighthawaii.org.

Thank you in advance for reviewing and considering our comments. If you can kindly confirm receipt, I would appreciate it.

Sincerely,
Stacey Breshears, MS, RD, LD, CDCES

--

2024 -2025 President
Hawai'i Academy of Nutrition and Dietetics
www.eatrighthawaii.org





November 12, 2024

DCCA-PVL
Attn: Board of Acupuncture
P.O. Box 3469
Honolulu, HI 96801

Re: Amendments to Chapter 16-72, *Acupuncture Practitioners*

Dear Chair McMenemy & Members of the Board of Acupuncture:

The Hawaii Academy of Nutrition and Dietetics (the “HAND”) is pleased to provide comments on proposed changes to Chapter 16-72, *Acupuncture Practitioners*. HAND, representing 452 Hawaii dietitians, is an affiliate of the Academy of Nutrition and Dietetics (the “Academy”), the largest association of nutrition and dietetics practitioners committed to accelerating improvements in global health and well-being through food and nutrition.

In general, we are supportive of other allied health care practitioners practicing within their licensed scope of practice. However, as we review the proposed changes to Chapter 16-72, we express concern that many of the terms and provisions may exceed the authority granted by statute and may unintentionally create discord with the licensed scope of practice of other licensed healthcare practitioners. Most relevant to our concerns are §16-72-3 providing for the new terms, “lifestyle and dietary consult,” and “acupuncture medicine,” and §16-72-4 addressing an acupuncturist’s authorized scope of practice.

§16-72-3 DEFINITIONS

Acupuncture Medicine

The Board of Acupuncture (hereinafter “the Board”) proposes to provide a definition for the term “acupuncture medicine.” This definition provides:

*“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.”* (emphasis added)



An Affiliate of the
Academy of Nutrition and Dietetics

www.eatrighthawaii.org

P.O. Box 22298, Honolulu, HI 96823



We have significant concerns about this proposal, as Hawaii’s licensing statute limits licensed acupuncture practitioners solely to the “practice of acupuncture.” According to Hawaii Revised Statutes § 436E-2, the “practice of acupuncture” is defined as:

“Stimulation of a certain acupuncture point or points on the human body for the purpose of controlling and regulating the flow and balance of energy in the body. The practice includes techniques of piercing the skin by inserting needles and point stimulation using acupressure, electrical, mechanical, thermal, or traditional therapeutic means.”

The statute does not reference “lifestyle and nutritional counseling” or any related scope of practice. However, under the Board’s proposed definition, “lifestyle and dietary consult” would encompass “traditional nutritional therapy concepts of food as medicine, emphasizing the food’s character with balanced consumption,” and would include “herbal and nutritional supplements, environmental factors, meditation, movement, and exercise.”

This proposed definition would vastly expand the scope of practice for acupuncturists beyond what is authorized by Hawaii’s licensing statute. We believe such an expansion should require statutory changes to reflect any significant new roles and responsibilities for practitioners, as these exceed the scope of acupuncture as currently defined.

Additionally, while we do not oppose licensed acupuncturists providing general nutrition guidance not intended to treat specific medical conditions, the references to "nutrition counseling" and "food as medicine" appear to suggest that licensed acupuncturists would be authorized to practice medical nutrition therapy.¹ We oppose this expansion, as it not only seems to exceed the authority of the current acupuncture licensing statute but also does not serve the best interest of the public.

To provide this level of care, Hawaii Revised Statutes § 448B-5 requires licensed dietitians to complete at least a bachelor’s or postgraduate degree in dietetics or human nutrition, a [programmatically accredited](#) supervised practice experience of at least 900 hours, and to pass the registration exam administered by the Commission on Dietetic Registration. Expanding the scope of practice for acupuncturists to include medical nutrition therapy, without requiring similar training, would not adequately protect the public.

¹ For reference, the Commission on Dietetic Registration defines medical nutrition therapy as: “an evidence-based application of the Nutrition Care Process. The provision of MNT (to a patient/client) may include one or more of the following: nutrition assessment/reassessment, nutrition diagnosis, nutrition intervention and nutrition monitoring and evaluation that typically results in the prevention, delay or management of diseases and/or conditions.” Definition of Terms List, Commission on Dietetic Registration, November 2024, available at: <https://www.cdrnet.org/definitions> (accessed November 7, 2024).





§16-72-4 AUTHORIZED PRACTICE OF ACUPUNCTURE

It appears under §16-72-4 the Board is proposing to expand the scope of practice of a licensed acupuncturist to include many services beyond what is provided for in the statute under “practice of acupuncture” referenced above. Here the Board proposes to include within the authority of a licensed acupuncturist the ability to diagnose, provide for lifestyle and dietary consultation, and prescribe and dispense herbal medicine. Again, we emphasize our concern that such provisions exceed the authority of the licensing statute and may not be in the best interest of the public.

Furthermore, we are deeply concerned that expanding the scope of "acupuncture practice" through regulation to include diagnosing, lifestyle and dietary consultations, and prescribing herbal medicine could unintentionally make certain practices by other healthcare providers—such as physicians,² nurse practitioners, physician assistants, and dietitians—unlawful under §436E-3 of the Hawaii Revised Statutes, which prohibits practicing acupuncture without a license. If the Board wishes to broaden the scope of licensed acupuncturists in Hawaii, we strongly urge that such changes be pursued through legislation rather than regulatory amendments as these proposed rule amendments do not align with the intent and scope of the statute.

The Hawaii Academy of Nutrition and Dietetics appreciates the opportunity to provide these comments. Please feel free to reach out to Stacey Breshears or Charla Burill with any questions or requests for additional information.

Sincerely,

Stacey Breshears, MS, RD, LD, CDCES
President
Hawaii Academy of Nutrition and Dietetics
president@eatrighthawaii.org

Charla M. Burill, JD, RD
Sr. Director, State Legislative & Government Affairs
Academy of Nutrition and Dietetics
cburill@eatright.org

Cc: The Honorable Josh Green, MD
Office of the Governor

Danny M. Takanishi, Jr., MD, Chairperson
Hawaii Medical Board

² Of note, to this point, under §436E-3.5 the acupuncturists licensing statute states: “Physicians and osteopaths not exempt. Persons licensed under chapter 453 who desire to practice acupuncture shall be subject to licensing under this chapter.” This is supported by Att. Gen. Op. 03-5.



From: [Ralph Shenefelt](#)
To: [DCCA Acupuncture](#)
Cc: [Nicole Printup](#)
Subject: [EXTERNAL] Board of Acupuncture Proposed Administrative Rules Comment
Date: Tuesday, October 29, 2024 6:03:54 AM
Attachments: [Board of Acupuncture Proposed Administrative Rules Comment.pdf](#)
[EXHIBIT A.pdf](#)

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VIA EMAIL. DELIVERY & READ RECEIPT REQUESTED

October 28, 2024

Department of Commerce and Consumer Affairs
Division of Professional and Vocational Licensing
Board of Acupuncture
PO Box 3469
Honolulu, HI 96801

RE: Board of Acupuncture Proposed Administrative Rules Comment

The purpose of this letter is to request amendment of the proposed rules of the Hawaii Board of Acupuncture ("Board").

I. Draft Rule Language

- a. §16-72-46 Renewal (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."

II. Requested Amendment

- a. 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, or the Health & Safety Institute."

I. Reasons for Requesting Amendment

- a. The American Heart Association[®], Inc. ("AHA"), the American National Red Cross ("ARC") and the [Health and Safety Institute](#) ("HSI") are the largest providers of cardiopulmonary resuscitation ("CPR") training in the United States (**EXHIBIT A**).
- b. Like the AHA and ARC, HSI is nationally accredited by the [Commission on Accreditation of Pre-Hospital Continuing Education](#) ("CAPCE").
- c. HSI CPR courses are equivalent to those offered by the AHA and the ARC and meet the requirements of the [National Certification Commission for Acupuncture and Oriental Medicine](#) ("NCCAOM").^[1]
- d. The training business units of the HSI, AHA, and the ARC are similar.
 - i. Each corporation develops and markets commercially available, proprietary training programs, products, and services to their approved Training Centers, either directly or via distributors.
 - ii. The business structures of the approved Training Centers include sole proprietorships, partnerships, corporations, LLCs, non-profits, as well as

- both large and small government agencies.
- iii. Instructors are authorized to certify course participants. Certification requires instructor evaluation of hands-on skills to verify skill competency.
 - e. Nothing in Hawaii statute compels the Board to restrict CPR training to the AHA and the ARC.^[2]
 - i. As proposed, the rule language:
 1. Unfairly restrains competition by prescribing the commercially available, proprietary CPR training programs, products and services of the AHA, the ARC, their [Approved Training Centers](#), [Licensed Training Providers](#) and the AHA's own for-profit CPR training company^[3] - all of whom have a vested economic interest in CPR training, particularly where it is required for occupational licensing.
 2. Has an adverse financial impact on licensees who present a legitimate CPR certification from HSI by direct penalties including denial, suspension, or revocation of license and by indirect penalties such as the inconvenience and costs associated with superfluous AHA or ARC training and certification.
 3. Unreasonably harms HSI's reputation as an equivalent, bona fide, nationally approved and accredited training organization.

I. Additional Facts

- a. HSI's resuscitation training programs are currently in use by, and accepted, approved, or recognized as meeting the requirements of thousands of employers, state regulatory agencies, occupational licensing boards, professional associations, commissions, and councils in hundreds of occupations and professions nationwide.
- b. HSI publishes and administers a set of [quality assurance standards](#) designed to monitor and improve the performance of HSI, its approved Training Centers and Authorized Instructors so that the products and services provided meet or exceed the requirements of regulatory authorities and other approvers.
- c. HSI is a member of the Council on Licensure, Enforcement and Regulation ([CLEAR](#)), the international resource for professional regulation stakeholders. HSI Quality Assurance representatives are [Nationally Certified Regulatory Investigators](#).
- d. HSI is a member of the American National Standards Institute ([ANSI](#)) and ASTM International ([ASTM](#)) – both globally recognized leaders in the development and delivery of international voluntary consensus standards.

Conclusion

The AHA, ARC, and HSI are the largest providers of CPR training in the United States. The exclusionary language of the proposed rule fails to treat similarly situated resuscitation training programs in the same fashion, unfairly harming competition by eliminating a rival without a plausible justification and restrains competition without a countervailing rationale sufficient to justify its harmful effects. The requested amendment will encourage full and free competition while achieving the goal of maintaining the quality measures necessary to protect public health and safety. We support regulations that do not harm employment, competition, or innovation. We value, believe in, and promote successful completion of a valid resuscitation program as an important component in protecting public safety, health, and welfare. We look forward to helping the Board protect the health and safety of the citizens of Hawaii.

Respectfully,

Ralph Shenefelt

SVP, Regulatory, Accreditation, & Quality Assurance

rshenefelt@hsi.com

Health & Safety Institute | 1450 Westec Drive, Eugene, OR 97402 | www.hsi.com

Making the Workplace and Community Safer™

[1] NCCAOM CPR REQUIREMENT UPDATE. Available: <https://www.nccaom.org/public-comments-cpr-requirement/> [Retrieved 10/29/24]

[2] CHAPTER 436E, Acupuncture Practitioners. Available: https://files.hawaii.gov/dcca/pvl/pvl/hrs/hrs_pvl_436e.pdf [Retrieved 10/29/24]

[3] *Dallas-based American Heart Association to spin off a CPR training company*, July 5, 2018 Available: <https://www.dallasnews.com/business/health-care/2018/06/29/dallas-based-american-heart-association-spin-off-cpr-training-company> [Retrieved 10/29/24]



VIA EMAIL. DELIVERY & READ RECEIPT REQUESTED

October 28, 2024

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- c. HSI CPR courses are equivalent to those offered by the AHA and the ARC and meet the requirements of the National Certification Commission for Acupuncture and Oriental Medicine ("NCCAOM").¹
- d. The training business units of the HSI, AHA, and the ARC are similar.

¹ NCCAOM CPR REQUIREMENT UPDATE. Available: <https://www.nccaom.org/public-comments-cpr-requirement/> [Retrieved 10/29/24]



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 - ii. The business structures of the approved Training Centers include sole proprietorships, partnerships, corporations, LLCs, non-profits, as well as both large and small government agencies.
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² CHAPTER 436E, Acupuncture Practitioners. Available: https://files.hawaii.gov/dcca/pvl/pvl/hrs/hrs_pvl_436e.pdf [Retrieved 10/29/24]

³ *Dallas-based American Heart Association to spin off a CPR training company*, July 5, 2018 Available: <https://www.dallasnews.com/business/health-care/2018/06/29/dallas-based-american-heart-association-spin-off-cpr-training-company> [Retrieved 10/29/24]



- d. HSI is a member of the American National Standards Institute (ANSI) and ASTM International (ASTM) – both globally recognized leaders in the development and delivery of international voluntary consensus standards.

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The requested amendment will encourage full and free competition while achieving the goal of maintaining the quality measures necessary to protect public health and safety. We support regulations that do not harm employment, competition, or innovation. We value, believe in, and promote successful completion of a valid resuscitation program as an important component in protecting public safety, health, and welfare. We look forward to helping the Board protect the health and safety of the citizens of Hawaii.

Respectfully,

A handwritten signature in black ink, appearing to read "Ralph M. Shenefelt". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ralph M. Shenefelt
Senior Vice President
Health and Safety Institute

- In an analysis of 347 705 SCDs in the United States between 1999 and 2019 from CDC WONDER, age-adjusted mortality rates were higher in rural than in urban counties.³⁰ In urban counties, rates of SCD declined from 1999 through 2013 (−0.05 [95% CI, −0.09 to −0.01]) but then increased through the end of the study period (0.08 [95% CI, 0.03–0.12]). In rural counties, age-adjusted mortality rates attributable to SCD declined throughout the study period, but the rate of decline slowed after 2013 (−0.29 versus −0.14). Age-adjusted mortality rates for urban-dwelling males increased from 2013 onward from 4.8 to 5.7 per 100 000 population. Age-adjusted mortality rates for rural-dwelling males were unchanged from 2013 onward: 9.3 versus 9.3 per 100 000 population. Age-adjusted mortality rates for urban-dwelling females were unchanged from 2013 onward: 4.2 versus 4.8 per 100 000 population. In contrast, age-adjusted mortality for rural-dwelling females declined from 8.9 to 7.7 per 100 000 population.
- In a national database of 120 365 adult medical OHCA in the Republic of Korea from 2006 to 2015, there were differences from the lowest to highest socioeconomic quintiles for layperson CPR (5.5%–11.4%), survival to hospital discharge (3.8%–6.1%), and good functional recovery (1.9%–2.9%).¹³

Awareness and Treatment

- The median annual CPR training rate for US counties was 2.39% (25th–75th percentiles, 0.88%–5.31%) according to training data from the AHA, the American Red Cross, and the Health & Safety Institute, the largest providers of CPR training in the United States.³¹ Training rates were lower in rural areas, counties with high proportions of Black or Hispanic residents, and counties with lower median household income.
- Prevalence of reported current training in CPR was 18% and prevalence of having CPR training at some point was 65% in a survey of 9022 people in the United States in 2015.³² The prevalence of CPR training was lower in Hispanic/Latino people, older people, people with less formal education, and lower-income groups.
- Those with prior CPR training include 90% of citizens in Norway³³; 68% of citizens in Victoria, Australia³⁴; 61.1% of laypeople in the United Kingdom³⁵; and 49% of people in the Republic of Korea,³⁶ according to surveys.
- Prevalence of prior CPR training among 1076 adults in all states and territories in Australia was 540 (55.7%). The majority of respondents replied “unsure” (n=404, 37.6%) or “no” (n=316, 29.4%) when asked if they knew the difference between a cardiac arrest and a heart attack. Of respondents

with CPR training, 227 (42%) received training >5 years ago.³⁷

- Laypeople with knowledge of automated external defibrillators include 69.3% of people in the United Kingdom; 66% in Philadelphia, PA; and 32.6% in the Republic of Korea.^{35,36,38} A total of 58% of Philadelphia respondents,³⁸ but only 2.1% of UK respondents,³⁵ reported that they would actually use an automated external defibrillator during a cardiac arrest.
- A survey of 5456 households in Beijing, China, Shanghai, China, and Bangalore, India, found that 26%, 15%, and 3% of respondents, respectively, were trained in CPR.³⁹
- A survey of 501 inhabitants of Vienna, Austria, found that 52% would recognize cardiac arrest, 50% were willing to use an automated external defibrillator, and 33% were willing to do CPR.⁴⁰
- Laypeople in the United States initiated CPR in 40% of OHCA in CARES 2022 data.³
- Layperson CPR rates in Asian countries range from 10.5% to 40.9%.⁴¹
- Layperson CPR among 4525 witnessed pediatric OHCA was 831 of 1669 (36.9%) for female patients versus 1336 of 2856 (46.8%) for male patients.⁴²
- Laypeople in the United States were less likely to initiate CPR for people with OHCA in low-income Black neighborhoods (OR, 0.49 [95% CI, 0.41–0.58])⁴³ or in predominantly Hispanic neighborhoods (OR, 0.62 [95% CI, 0.44–0.89]) than in high-income White neighborhoods.⁴⁴
- Examining 2013 to 2019 CARES data shows that 32.2% of arrests occurred in Black or Hispanic individuals. Black and Hispanic individuals were less likely to receive layperson CPR at home (aOR, 0.74 [95% CI, 0.72–0.76]) and in public (aOR, 0.63 [95% CI, 0.60–0.66]) compared with White individuals with OHCA.⁴⁵ This disparity persisted despite the racial makeup of the community in which they arrested and the economic strata.
- Layperson CPR rates varied from 1.3% to 72% in an international study including 35 communities across 25 countries.⁴⁶ Rates of layperson CPR correlated with gross domestic product per capita (0.772; $P<0.01$; $r^2=0.596$). Socioeconomically advantaged communities most likely have more resources to provide CPR education.

Mortality

(See Tables 19-2 through 19-4)

- Survival to hospital discharge after EMS-treated adult OHCA was 9.3% in the 2022 CARES registry on the basis of 143 507 adult cases, with variation between states reporting data (range, 5.5%–15.4%; Tables 19-2 and 19-3). Survival to

EXHIBIT A



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Public Hearing
Wednesday, November 20, 2024 at 1:00 p.m.
Department of Commerce and Consumer Affairs

Testimony Supporting Amendment and Compilation of Chapter 16-72 Hawaii Administrative Rules

Dear Honorable Chair, Deborah McMenemy and Members of the Hawaii State Board of Acupuncture:

My name is Dr. Wai Hoa Low, President and Chief Executive Officer (CEO), testifying on behalf of the Institute of Clinical Acupuncture and Oriental Medicine (ICAOM). We are writing in Support of Amendment and Compilation of Chapter 16-72, Hawaii Administrative Rules that would make comprehensive updates regarding acupuncture practitioners to reflect modernized scope of practice, titles, and licensing and renewal requirements, including CPR training.

Hawaii's consumers will appreciate the benefits and protection from this amendments that revitalizes HAR 16-72 which has not been updated for over 20 years. Though we support the measure, we would like to take this opportunity to express our reservations concerning Subchapter 6 Examinations. We feel that section 16-72-33 "necessary to obtain a Diplomate of Oriental Medicine" be replaced with "necessary to obtain a Diplomate of Acupuncture". The Board recognizes and sanctions the use of Doctor of Acupuncture (DAc) title. Consumers are familiar with the Acupuncture wording. In addition, Federal Law prohibits the use for "Oriental" in all governmental documents. We therefore recommend the following:

RECOMMENDATION:

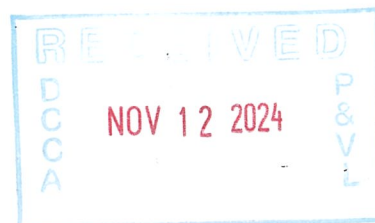
ICAOM recommends to the Board of Acupuncture to delete Diplomate of Oriental Medicine and replace it with Diplomate of Acupuncture:

§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] Acupuncture** or its equivalent as determined by the board.

Thank you for the opportunity to testify on this measure.

Respectfully,

Dr. Wai Hoa Low, President, DAOM, MBA, D.Ac.



Public Law 114–157
114th Congress

An Act

To amend the Department of Energy Organization Act and the Local Public Works Capital Development and Investment Act of 1976 to modernize terms relating to minorities.

May 20, 2016
[H.R. 4238]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODERNIZATION OF TERMS RELATING TO MINORITIES.

(a) OFFICE OF MINORITY ECONOMIC IMPACT.—Section 211(f)(1) of the Department of Energy Organization Act (42 U.S.C. 7141(f)(1)) is amended by striking “a Negro, Puerto Rican, American Indian, Eskimo, Oriental, or Aleut or is a Spanish speaking individual of Spanish descent” and inserting “Asian American, Native Hawaiian, a Pacific Islander, African American, Hispanic, Puerto Rican, Native American, or an Alaska Native”.

(b) MINORITY BUSINESS ENTERPRISES.—Section 106(f)(2) of the Local Public Works Capital Development and Investment Act of 1976 (42 U.S.C. 6705(f)(2)) is amended by striking “Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts” and inserting “Asian American, Native Hawaiian, Pacific Islanders, African American, Hispanic, Native American, or Alaska Natives”.

Approved May 20, 2016.

LEGISLATIVE HISTORY—H.R. 4238:

CONGRESSIONAL RECORD, Vol. 162 (2016):

Feb. 29, considered and passed House.

May 9, considered and passed Senate.

Board Delegation to EO on Applications with Prior Convictions

For Board consideration: Would the Board like to “delegate” to the EO approval of prior convictions from applicants that meet the following criteria:

- Only one conviction on record;
- No felony conviction;
- Applicant has complied (nothing outstanding, e.g. probation, fine, etc.) with court sanctions/fines, etc.;
- Conviction not related to applicant’s performance as an acupuncture practitioner or acupuncture intern; and
- Conviction not within 5 years of date application received.

Proposed delegation list of convictions below:

Conviction	Delegated to EO
<u>Traffic Violations/Tickets:</u> - Speeding - Parking - Driving w/out or with expired license - Not wearing a seat belt - Failing to stop at stop sign - Failure to yield right of way to vehicle - Following too closely - Violate restrictions on driver’s license - Negligent driving - Running a red light - Talking on cell phone while driving - Driving in emergency lane - Failing to stop for school bus - Driving w/out insurance - Making left turn at intersection - Grass parking in public park - No bicycle or moped tax decal - Bicycle racing - Parking in tow zone - Delinquent vehicle tax	
Unlawful entry w/out park permit	
Minor in possession of alcohol	
Curfew violations	
Trespass	
Reckless/Wet driving	
Negligent driving	
Possess open container while driving	
Obstruction of Highway	

Disorderly conduct	
Dog/cat at large, unlicensed animal, unlawful animal attack	
Telephone harassment	
Disturbing the peace	
Criminal damage property/Injury to real property	
Criminal Contempt of Court	
DUI/DWI/OVI	
Driving with a 0.08 higher blood alcohol	
DUI-Property damage	
Operating a motorboat while intoxicated	
Failure to appear in answer to citations	
Drinking in public/drunken in public	

Delegation to Licensed Board Member on Applications with Prior Disciplinary Actions

For Board consideration: Would the Board like to “delegate” to a licensed Board member, authority to approve prior disciplinary actions from applicants that meet the following criteria:

- Only one disciplinary action on record;
- Applicant has complied (nothing outstanding, e.g. CEs, probation, fine, etc.) with Board orders, sanctions, fines, etc.; and
- Disciplinary action not related to applicant’s performance as an acupuncture practitioner or acupuncture intern.

Proposed delegation list of disciplinary actions below:

Disciplinary Actions	Delegated to License Member
Basis for disciplinary action: failure to comply with another state’s CE requirement provided that applicant has complied with other state’s order/agreement and license has been reinstated and is in good standing	
Basis for disciplinary action: had one prior disciplinary action for practicing with a lapsed license and have completed all requirements imposed by another board of acupuncture.	

BOARD OF ACUPUNCTURE

Professional & Vocational Licensing Division
Department of Commerce & Consumer Affairs
State of Hawaii

2025 MEETING SCHEDULE

Board meeting from 1:00 p.m. to 3:00 p.m.

Meeting Date	Day	Conference Room
February 13	Thursday	King Kalakaua
April 10	Thursday	King Kalakaua
July 10	Thursday	King Kalakaua
October 9	Thursday	King Kalakaua