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243 CMR BOARD OF REGISTRATION IN MEDICINE

4.00: DISCIPLINARY PROCEEDINGS FOR ACUPUNCTURISTS

Section

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4.01: Scope and Construction of Rules

(1) Procedure Governed. 243 CMR 4.00 governs the disposition of matters relating to the practice of acupuncture by any person holding or having held a license issued by the Board of Registration in Medicine's Committee on Acupuncture under M.G.L. c. 112, §§ 148 through 162, and the conduct of adjudicatory hearings by the Committee. 243 CMR 4.00 is based on the principle of fundamental fairness to acupuncturists and patients and shall be construed to secure a speedy and just disposition. From time to time the Board and Committee may issue standing orders consistent with 243 CMR 4.00 and 801 CMR 1.00: Standard Adjudicatory Rules.

(2) Definitions.

Adjudicatory hearing: a formal administrative hearing conducted pursuant to M.G.L. c. 30A.

Board: the Board of Registration in Medicine, including, but not limited to, its Acupuncture Unit, Data Repository/Data Management Unit, Disciplinary Unit, Patient Care Assessment Unit, Legal Unit, Licensing and Examining Unit, and its agents and employees.

Committee: the Committee on Acupuncture of the Board of Registration in Medicine, established under the provisions of M.G.L. c. 112, § 149.

Complaint: a communication filed with the Board or Committee which charges a licensee with misconduct.

Informal: not subject to strict procedural or evidentiary rules.

Licensee: a person holding or having held any type of license issued pursuant to M.G.L. c. 112, §§ 148 through 162.

Party: a respondent, associate prosecutor representing the Disciplinary Unit, or intervenor in an adjudicatory proceeding pursuant to 801 CMR 1.01(9).

Respondent: the licensee named in a Statement of Allegations.

Statement of Allegations: a paper served by the Committee upon a licensee ordering the licensee to appear before the Committee for an adjudicatory proceeding and to show cause why the licensee should not be disciplined; a "Statement of Allegations" is an "Order to Show Cause" within the meaning of 801 CMR 1.01(6)(d).

Subcommittee: the Complaint Subcommittee of the Committee on Acupuncture.

4.02: General Provisions

(1) Communications. All written correspondence should be addressed to and filed with the Board of Registration in Medicine, Committee on Acupuncture, 10 West Street, Third Floor, Boston, Massachusetts 02111.

(2) (a) Service. The Committee shall provide notice of its actions in accordance with 801 CMR 1.01(4)(b) and (5)(f), or otherwise with reasonable attempts at in-hand service, unless the Respondent otherwise has actual notice of the committee's action. 243 CMR 4.00 provides that the Committee must notify parties, service may be made by first class mail. A notice of appearance on behalf of a Respondent shall be deemed an agreement to accept service of any document on behalf of the Respondent, including a Final Decision and Order of the Committee. When a Hearing Officer has jurisdiction over an adjudicatory proceeding, proper service by the Respondent includes filing copies of all papers and exhibits with

1) the Committee, care of the Chief of the Acupuncture Unit,

2) the Hearing Officer assigned to the adjudicatory proceeding, and 3) the Associate Prosecutor assigned to the adjudicatory proceeding. All papers served must be accompanied by a certificate of service.

(b) Notice to Committee Members. A Respondent (or her representative) and other persons shall not engage in ex parte communications with individual Committee members regarding a disciplinary proceeding. Communications to Committee members regarding disciplinary proceedings shall be in writing and directed to Committee members as follows:

Eight copies to the Executive Director, one copy to the Chief of the Acupuncture Unit, and one copy to the Chief of the Disciplinary Unit.

(3) Date of Receipt. Communications are deemed received on the date of actual receipt by the Committee.

(4) Computation of Time. The Committee shall compute time in accordance with 801 CMR 1.01(4)(c).

(5) Extension of Time. The Committee in its discretion may extend any time limit prescribed or allowed by 243 CMR 4.00.

(6) Identification and Signature; Paper Size. All papers filed with the Committee in the course of a disciplinary proceeding must contain the name, address, and telephone number of the party making the filing, and must be signed by either the party or an authorized representative. Paper size shall be 8 1/2 inches by 11 inches.

(7) Decisions by the Committee; Quorum. Unless 243 CMR 4.00 provides otherwise, a majority of members present and voting at a Committee meeting shall make all decisions and the Committee shall record its decisions in the minutes of its meetings. A quorum is a majority of the Committee, excluding vacancies.

(8) Availability of Committee Records to the Public.

(a) The availability of the Committee's records to the public is governed by the provisions of the Public Records Law, M.G.L. c. 66, § 10, and M.G.L. c. 4, § 7, clause 26, as limited by the confidentiality provisions of the Committee's regulations. A file or some portion of it is not a public record if the Committee determines that disclosure may constitute an unwarranted invasion of personal privacy, prejudice the effectiveness of law enforcement efforts (if the records were necessarily compiled out of public view), violate any provision of state or federal law, or if the records are otherwise legally exempt from disclosure.

(b) Before the Committee issues a Statement of Allegations, dismisses a complaint, or takes other final action, the Committee's records concerning a disciplinary matter are confidential.

(c) The Committee's records of disciplinary matters, as limited by 243 CMR 4.02(8)(a) and (b), include the following:

1. Closed complaint files, which contain the complaint and other information, are public records. The name of a complainant or patient and relevant acupuncture records shall be disclosed to the Respondent, but this information is otherwise confidential. The names of reviewers and the contents of complaint reviews shall be confidential.

2. Disciplinary Unit files, which contain portions of complaint files (and related confidential files) as well as papers related to adjudicatory proceedings and attorney work product, are not public records and are confidential.

3. The Committee's files, which contain each paper filed with the Committee in connection with an adjudicatory proceeding, are public records, unless otherwise impounded or placed under seal by the Hearing Officer or the Committee.

4. Records of the review and investigation of statutory reports are not public records and are confidential.

5. Closed anonymous complaints, which are determined to be frivolous or lacking in either legal merit or factual basis, consistent with 243 CMR 4.03(3)(a) are not public records and are confidential.

(9) Public Nature of Committee Meetings Under 243 CMR 4.00.

(a) All meetings of the Committee are open to the public to the extent required by M.G.L. c. 30A, § 11A.

(b) As provided by M.G.L. c. 30A, § 11A, a Committee meeting held for the purpose of making a decision required in an adjudicatory proceeding is not open to the public. Evidentiary hearings before individual hearing officers are generally open to the public, but the Committee may carry out its functions under these rules in closed session if these functions effect an individual licensee or patient, the licensee or patient requests that the Committee function in closed session, and the Committee or hearing officer determines that functioning in closed session would be consistent with law and in the public interest.

(10) Conditional Privilege of Communications with the Committee. All communications with the Committee charging misconduct, or reporting or providing

information to the Committee pursuant to M.G.L. c. 112, § 158, or assisting the Committee in any manner in discharging its duties and functions, are privileged, and a person making a communication is privileged from liability based upon the communication unless the person makes the communication in bad faith or for a malicious reason.

(11) State or Federal Agencies, Boards or Institutions Designated to Receive Investigative Records or Confidential Information. The Committee is authorized by the Board to review written requests for the Committee's investigative records or other confidential information from the following agencies which are hereby designated to receive, upon Committee approval, such information consistent with the Fair Information Practices Act ("FIPA"), M.G.L. c. 66A:

- (a) Massachusetts Department of the Attorney General;
- (b) Offices of the Massachusetts District Attorneys;
- (c) Massachusetts Municipal Police Departments;
- (d) Massachusetts State Police;
- (e) Federal Trade Commission;
- (f) Office of the United States Attorney;
- (g) U.S. Postal Inspector;
- (h) U.S. Department of Justice, Drug Enforcement Administration, and Federal Bureau of Investigation;
- (i) Division of Registration;
- (j) all other state Medical and Acupuncture Boards;
- (k) Division of Insurance and the Insurance Rating Bureau;
- (l) Massachusetts Health Data Consortium, Inc.;
- (m) Department of Public Health;
- (n) Massachusetts Department of Revenue;
- (o) U.S. Internal Revenue Service;
- (p) National Commission for the Certification of Acupuncturists.

All recipients of confidential information designated by this regulation shall preserve the confidentiality of such data and make it available to the data subject, to the extent such access is required by FIPA.

4.03: Disposition of Complaints

(1) Initiation. Any person, organization, or member of the Committee may make a complaint to the Committee which charges a licensee with misconduct. A complaint may be filed in any form. The Committee, in its discretion, may investigate anonymous complaints.

(2) Complaint Subcommittee. The Committee may establish a subcommittee known as the Complaint Subcommittee to review complaints charging a licensee with misconduct. If the Subcommittee or a Board or Committee Investigator determines that a communication does not relate to any of the matters set forth in 243 CMR 4.03(5), the Subcommittee or the investigator may refer the communication to the proper authority or regulatory agency.

(3) (a) Preliminary Investigation. A Board or Committee Investigator shall conduct such preliminary investigation, including a request for an answer from the licensee, as is necessary to allow the Complaint Subcommittee to determine whether a complaint is frivolous or lacking in either legal merit or factual basis. If, after a preliminary

investigation of an anonymous complaint, the investigator determines that the anonymous complaint is frivolous or lacking in either legal merit or factual basis, the anonymous complaint shall not be docketed, shall be filed in a general correspondence file, and shall remain confidential.

(b) Subsequent Inquiry, Investigation. After receipt and review of a complaint, if the Complaint Subcommittee determines that the complaint is frivolous or lacking in either legal merit or factual basis, it may close the complaint. The Subcommittee shall notify the person who made the communication of its determination and the reasons for it. As to other complaints, the Subcommittee shall conduct, or cause to be conducted, any reasonable inquiry or investigation it deems necessary to determine the truth and validity of the allegations set forth in the complaint.

(4) Conference. To facilitate disposition, the Committee or the Complaint Subcommittee may request any person to attend a conference at any time prior to the commencement of an adjudicatory proceeding. The Committee or Subcommittee shall give timely notice of the conference, and this notice must include either a reference to the complaint or a statement of the nature of the issues to be discussed.

(5) Grounds for Complaint.

(a) Specific Grounds for Complaints Against

Acupuncturists. A complaint against an acupuncturist must allege that a licensee is practicing acupuncture in violation of law, regulations, or good and accepted acupuncture practice, and may be founded on any of the following:

1. Fraudulent procurement of his license or its renewal;
2. Violation of any provision of the laws of the Commonwealth relating to the practice of medicine or acupuncture, or any rule or regulation adopted thereunder;
3. Conduct which places into question the acupuncturist's competence to practice acupuncture including, but not limited to, gross misconduct in the practice of acupuncture, or practicing acupuncture fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions;
4. Practicing acupuncture while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
5. Being habitually drunk or being or having been addicted to, dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
6. Knowingly permitting, aiding or abetting an unlicensed person to perform activities requiring a license;
7. Conviction of any crime;
8. Continuing to practice while her license is lapsed, suspended, or revoked;
9. Practicing acupuncture in a manner, which is professionally unethical according to the ethical standards of the profession.
10. Violation of any rule or regulation of the Board or Committee;
11. Practicing acupuncture other than upon a written referral or a receipt of written diagnosis of a physician or dentist duly licensed in the Commonwealth.
12. Having been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112, § 158 or 243 CMR 4.03(5);

13. Cheating on or attempting to compromise the integrity of any acupuncture licensing examination;

14. Failure to report to the Committee, as required by law or regulation, any disciplinary action taken against the licensee by another licensing jurisdiction (United States or foreign), by any health care institution, by any professional or acupuncture society or association, by any governmental agency, by any law enforcement agency, or by any court for acts or conduct substantially the same as acts or conduct which would constitute grounds for complaint as defined in 243 CMR 4.03;

15. Failure to respond to a subpoena or to furnish the Committee, its investigators or representatives, documents, information or testimony to which the Committee is legally entitled;

16. Malpractice within the meaning of M.G.L. c. 112, § 61;

17. Misconduct in the practice of acupuncture.

(b) Other Grounds for Complaints Against Acupuncturists.

Nothing herein shall limit the Committee's adoption of policies and grounds for discipline through adjudication as well as through rule-making.

(6) Docket. The Committee shall assign a docket number to all complaints and shall mark the complaint with this number and the date filed. All subsequent papers relating to the particular complaint shall be marked with the same docket number and shall be placed in a file (hereinafter called "the docket") with all other papers bearing the same number.

(7) Order for Answering and Answer. The Subcommittee may order that the licensee complained of answer the complaint within ten days. The Subcommittee shall attach a copy of the complaint to the order for answering or shall describe the acts alleged in the complaint. A licensee shall respond to an order for answering either personally or through his attorney, in compliance with 243 CMR 4.02(6). An answer must address the substantive allegations set forth in the complaint or order.

(8) Dismissal by Complaint Subcommittee. Upon receipt of a licensee's answer or at any point during the course of investigation or inquiry into a complaint, the Subcommittee may determine that there is not and will not be sufficient evidence to warrant further proceedings or that the complaint fails to allege misconduct for which a licensee may be sanctioned by the Committee. In such event, the Subcommittee shall close the complaint. The Subcommittee shall retain a file of all complaints.

(9) Committee Action Required. If a licensee fails to answer within the ten-day period or if the Subcommittee determines that there is reason to believe that the acts alleged occurred and constitute a violation for which a licensee may be sanctioned by the Committee, the Subcommittee may recommend to the Committee that it issue a Statement of Allegations.

(10) Disposition by the Committee. The Committee shall review each recommendation which the Subcommittee forwards to it within a reasonable time and shall require an adjudicatory hearing if it determines that there is reason to believe that the acts alleged occurred and constitute a violation of any provision of 243 CMR 4.03(5) or M.G.L. c. 112, § 158. The Committee may take such informal action as it deems a complaint warrants. If the Committee requires an adjudicatory hearing, it may refer the matter to a hearing officer.

(11) Suspension Prior to Hearing. The Committee may suspend or refuse to renew a license pending a hearing on the question of revocation if the health, safety or welfare of the public necessitates such summary action. The procedure for summary suspension is as follows:

(a) Immediate and Serious Threat. If, based upon affidavits or other documentary evidence, the Committee determines that a licensee is an immediate and serious threat to the public health, safety or welfare, the Committee may suspend or refuse to renew a license, pending a final hearing on the merits of the Statement of Allegations. The Committee must provide a hearing on the necessity for the summary action within seven days after the suspension.

(b) Serious Threat. If, based upon affidavits or other documentary evidence, the Committee determines that a licensee may be a serious threat to the public health, safety or welfare, the Committee may order the licensee to file opposing affidavits or other evidence within three business days. Based upon the evidence before it, the Committee may then suspend or refuse to renew the license, pending a final hearing on the merits of the Statement of Allegations. The Committee must provide a hearing on the necessity for the summary action within seven days after the suspension.

(12) Assurance of Discontinuance.

(a) This section shall apply to minor violations of 243 CMR 4.03(5), and, unless there is an allegation of patient harm, or allegations of drug or alcohol impairment, as determined within the discretion of the Complaint Subcommittee and the Committee.

(b) At the time that the Complaint Subcommittee determines that a recommendation for a Statement of Allegations is warranted, it may either forward such recommendation to the Committee or refer the matter to a conference including a Hearing Officer, a representative of the Disciplinary Unit, and the Respondent. At the conference, the representative of the Disciplinary Unit and the Respondent may submit to the Hearing Officer a proposed Assurance of Discontinuance, which shall include:

1. Recitation of circumstances giving rise to the Assurance of Discontinuance,
2. The Respondent's assurance of discontinuance,
3. A sanction and/or the Respondent's agreement to pay the Commonwealth's costs of the investigation, and
4. The Respondent's agreement that violation of the Assurance of Discontinuance shall be prima facie evidence of violation of the applicable law, regulations or standards of good and accepted acupuncture practice referenced in the Assurance of Discontinuance.

(c) If the Hearing Officer approves the Assurance of Discontinuance, it shall be forwarded to the Committee for final approval.

(d) If the Hearing Officer and the Committee do not approve an Assurance of Discontinuance within 60 days of referral of the matter to the Hearing Officer for conference, or if the Hearing Officer refers the matter back to the Complaint Subcommittee, the Complaint Subcommittee shall forward its recommendation regarding issuance of the Statement of Allegations to the Committee.

(e) The Respondent may request that the Committee not process her case pursuant to 243 CMR 4.03, in which event the Complaint Subcommittee shall forward its recommendation regarding issuance of a Statement of Allegations to the Committee.

4.04: Adjudicatory Hearing

(1) Rules for Conducting Hearings. After the Committee issues a Statement of Allegations, the Committee shall conduct all hearings in accordance with 801 CMR 1.00: Standard Adjudicatory Rules of Practice and Procedure.

4.05: Final Decision and Order, and Miscellaneous Provisions

(1) In General. Every Final Decision and Order of the Committee requires the concurrence of at least four members, or of a majority of the Committee if it has more than one vacancy. If the Hearing Officer is a member of the Committee, her vote counts in the event the Committee is not otherwise able to reach a final decision.

(2) Sanctions. In disposition of disciplinary charges brought by the Committee, the Committee may revoke, suspend, or cancel the license, or reprimand or censure the acupuncturist. The Committee may also condition the stay or other cessation of a sanction upon reasonable conditions consistent with the public health, safety and welfare. A reprimand is a severe censure.

(3) Nature and Effect, Generally. Any order of the Committee which imposes a sanction as a result of a disciplinary action is effective immediately, unless the Committee orders otherwise.

(a) Suspension. A licensee whose license is suspended for a period of time is automatically reinstated upon expiration of the suspension period.

(b) Revocation. The cancellation or revocation of a license is effective for at least five years, unless the Committee orders otherwise. Reinstatement thereafter may be granted or denied in the Committee's discretion. A cancellation or revocation is lifted only through a petition for reinstatement.

(4) Reinstatement. A person previously licensed by the Committee may apply for reinstatement of his license no sooner than five years after revocation, unless the Committee orders otherwise. An application for reinstatement is addressed to the Committee's discretion, must be made in the form the Committee prescribes, must be filed in the original with ten copies, and will be granted only if the Committee determines that doing so would advance the public interest. If the Committee denies a petition for reinstatement, the Respondent shall not re-petition for reinstatement until at least two years after the date of denial, unless the Committee orders otherwise.

(5) Resignation.

(a) A licensee who is named in a complaint or who is subject to an investigation by the Committee or who is the respondent in a disciplinary action may submit her resignation by delivering to the Committee a writing stating that: she desires to resign; her resignation is tendered voluntarily; she realizes that resignation is a final act which deprives a person of all privileges of licensure and is not subject to reconsideration or judicial review; and that the licensee is not currently licensed to practice in any other state or jurisdiction, will make no attempt to gain licensure elsewhere, or will resign any other licenses contemporaneously with her resignation in the Commonwealth.

(b) If a complaint, investigation, or Statement of Allegations arises solely out of a disciplinary action in another jurisdiction, within the meaning of 243 CMR 4.03(5)(a)12., then the licensee may submit a resignation pursuant to 243 CMR 4.05(5)(a), but need not make any representation regarding licensure status in other jurisdictions, is permitted to

gain licensure elsewhere, and need not resign any other licenses contemporaneously with the resignation.

(6) Unauthorized Acupuncture Practice. The Committee shall refer to the appropriate District Attorney or other appropriate law enforcement agency any incidents of unauthorized acupuncture practice which come to its attention.

REGULATORY AUTHORITY 243 CMR 4.00: M.G.L. c. 13, § 10; c. 112, §§ 2 through 9B, and 148 through 162.

5.00: THE PRACTICE OF ACUPUNCTURE

Section

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5.01: Introductory Provisions

(1) Purpose. 243 CMR 5.00 is the judgment of the Board of Registration in Medicine and its Committee on Acupuncture concerning the practice of acupuncture. Its purpose is to prescribe substantive standards governing the practice of acupuncture which will promote the public health, safety and welfare, and inform acupuncturists of the Board's and Committee's expectations and requirements. The Board and Committee presume that every acupuncturist in the Commonwealth has notice of 243 CMR 5.00 and will practice acupuncture in accordance with it.

(2) Authority. The Board and Committee adopt 243 CMR 5.00, and may amend 243 CMR 5.00, under the authority of M.G.L. c. 112, §§148-162 (1985 Supp & 1986 Supp), M.G.L. c. 30A (1984 ed.), and M.G.L. c. 112, §§ 2-9B, 61-65 (1984 ed.).

(3) Citation. The name of 243 CMR 5.00 is "Massachusetts Regulations Governing the Practice of Acupuncture." They may be cited as "Mass. Regs. Governing the Practice of Acupuncture," "the acupuncture regulations," or "243 CMR 5.00."

(4) Definitions. For the purposes of 243 CMR 5.00, the terms below have the following meanings:

Acupuncture regulations: the regulations contained in 243 CMR 5.00.

Acupuncture school: any legally chartered school which grants diplomas, certificates or graduate degrees in acupuncture, or any department or program within a college or university that grants diplomas, certificates or graduate degrees in acupuncture.

Acupuncture statute: M.G.L. c. 112, §§ 148-162.

Acupuncture student: a student enrolled in a legally chartered acupuncture school.

Adjudicatory hearing: a hearing conducted in accordance with M.G.L. 30A, and the "Rules of Procedure Governing Disciplinary Proceedings for Acupuncturists," 243 CMR 4.00.

Board: the Board of Registration in Medicine established by M.G.L. c. 13, § 10 (1984 ed.).

CCAOM: the Council of Colleges of Acupuncture and Oriental Medicine.

CNT Course: the Clean Needle Technique Course administered by the CCAOM (formerly the NCASC - National Council of Acupuncture Schools and Colleges).

Committee: the Committee on Acupuncture established by M.G.L. c. 112, § 149.

Disciplinary action: an action adversely affecting a licensee which simultaneously meets the descriptions in 243 CMR 5.01(4)(a), (b) and (c), and which is limited as described in 243 CMR 5.01(4)(d) and (e):

(a) An action of an entity, including, but not limited to, a governmental authority, a health care facility, an employer, or a professional acupuncture association (international, national or local).

(b) An action which is formal or informal, or oral or written.

(c) Any of the following actions or their substantial equivalents, whether voluntary or involuntary:

1. Revocation of a right or privilege.
2. Suspension of a right or privilege.
3. Censure.
4. Written reprimand or admonition.
5. Restriction of a right or privilege.
6. Non-renewal of a right or privilege.
7. Fine.

8. A required performance of public service.

9. A course of education, training, counseling, or monitoring, only if such course arose out of the filing of a complaint or the filing of any other formal charges reflecting upon the licensee's competence to practice acupuncture.

10. Denial of a right or privilege.

11. Resignation.

12. Leave of absence.

13. Withdrawal of an application.

14. Termination or non-renewal of a contract with a licensee.

(d) 243 CMR 5.01(4)(c)10. through 14. are "disciplinary actions" only if they relate directly or indirectly to:

1. the licensee's competence to practice acupuncture, or

2. a complaint or allegation regarding any violation of law or regulation (including, but not limited to, the regulations of the Board and Committee) or bylaws of a health care facility, group practice, or professional acupuncture association, whether or not the complaint or allegation specifically cites violation of a specific law, regulation, or bylaw.

(e) If based upon a failure to complete acupuncture records in a timely fashion or failure to perform minor administrative functions, a first or second written reprimand or admonition, or a first or second suspension or restriction of a right or privilege (if less

than ten working days in any month), is not a "disciplinary action" for the purposes of mandatory reporting to the Committee.

Intern: an acupuncture student in good standing enrolled in an internship program.

Internship program: a clinical program in acupuncture which provides clinical training.

License: a certificate of registration which the Committee issues to a person pursuant to the requirements of M.G.L. c. 112, §§148 through 162, and the acupuncture regulations, and which authorizes the person to practice acupuncture. There are two categories of licenses: full and temporary.

Licensure examination: the examination that the Committee gives to applicants for full licensure pursuant to 243 CMR 5.02.

NACSCAOM: the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

NCCA: the National Commission for the Certification of Acupuncturists.

The practice of acupuncture: the practice of medicine based upon traditional oriental medical theories; primarily the insertion of metal needles through the skin at certain points on the body, with or without the use of herbs, with or without the application of electric current, and with or without the application of heat to the needles, skin, or both, in an attempt to relieve pain or improve bodily function. Electroacupuncture, whether utilizing electrodes on the surface of the skin or current applied to inserted needles, and laser acupuncture are considered the practice of acupuncture.

(a) Acupuncture shall include, but not be limited to:

1. Auricular, hand, nose, face, foot and/or scalp acupuncture therapy;
2. Stimulation to acupuncture points and channels by use of any of the following:
 - a. Needles, moxibustion, cupping, thermal methods, magnets, gwa-sha, scraping techniques, acupatches, herbal poultices, ion cord linking acupuncture devices with wires, hot and cold packs, TDP (electro magnetic wave therapy).
 - b. Manual stimulation including acutotement (which is defined as stimulation by an instrument that does not pierce the skin); massage, acupressure, reflexology, and shiatsu tui na.
 - c. Electrical stimulation including electro- acupuncture, percutaneous and transcutaneous electrical nerve stimulation.

(b) Acupuncture diagnostic technique shall include but not be limited to the use of observation, listening, smelling, inquiring, palpation, pulses, tongue, physiognomy, five element correspondences, ryodoraku, akabani, German electro-acupuncture, Kirlian photography and thermography.

(c) The needles used in acupuncture shall be solid filiform instruments which shall include but not be limited to: dermal needles, plum blossom needles, press needles, prismatic needles and disposal lancets. The use of staples in the practice of acupuncture shall be prohibited.

(d) Adjunctive therapies shall include but not be limited to:

1. oriental nutritional counseling, herbology, and the recommendation of nonprescription substances which meet the Food and Drug Administration labeling requirements, as dietary supplements to promote health.
2. recommendation of breathing techniques and therapeutic exercises; and

3. lifestyle, behavioral, supportive, educational and stress counseling.
- (e) Acupuncturist means any person licensed under the provisions of M.G.L. c. 112, §§ 149 to 162, inclusive, to practice acupuncture.

TOEFL: Test of English as a Foreign Language, administered by the Educational Testing Service.

TOEIC: Test of English for International Communication, administered by the Educational Testing Service.

TSE: Test of Spoken English, administered by the Educational Testing Service.

(5) Number. Words in 243 CMR 5.00 importing the singular include the plural, and words importing the plural include the singular.

(6) Gender of Pronouns. Pronouns indicating gender are used indiscriminately in 243 CMR 5.00 to refer to persons of both sexes.

(7) Submission of Papers. The Committee's official mailing address is: Board of Registration in Medicine, Committee on Acupuncture, 10 West Street, Third Floor, Boston, Massachusetts 02111.* Persons wishing to file papers with the Committee may mail them or hand deliver them to the above address, unless the Committee orders otherwise.

(8) Availability of Forms. The Committee will make available upon request any forms prepared in accordance with 243 CMR 5.00.

(9) Computation of Time. Unless otherwise specifically provided by law or 243 CMR 5.00, computation of any time period referred to in 243 CMR 5.00 shall be in accordance with 801 CMR 1.01(4).

(10) Committee Procedure for Conducting Business. Unless 243 CMR 5.00 provide otherwise, a majority of the appointed members of the Committee shall constitute a quorum to conduct business. Unless otherwise specified, it shall require an affirmative vote of a majority of those present and voting at a meeting of the Committee to take any action or pass any motion.

5.02: Licensure Provisions

(1) Types of Licenses. Two types of licenses are issued by the Committee: full licenses and temporary licenses.

(2) Scope of Practice.

(a) A full licensee may practice acupuncture in

Massachusetts in accordance with M.G.L. c. 112 and 243 CMR 5.00.

(b) A temporary licensee shall only practice acupuncture on an individual or patient in the course of:

1. supervising interns in a Committee approved internship program in accordance with M.G.L. c. 112 and 243 CMR 5.00;

2. demonstrating acupuncture techniques as part of an acupuncture educational seminar or program;

3. participating in a postgraduate clinical training program.

(3) Qualifications Required of Each Applicant. Each applicant for full and temporary licensure shall possess the following qualifications listed in M.G.L. c. 112, §§ 152(a), 152(b), and 152(c):

- (a) An applicant shall be at least 18 years of age;

(b) An applicant shall be of good moral character;

(c) An applicant shall demonstrate sufficient knowledge of the English language to understand and be understood by patients, physicians, and Board and Committee personnel, by submitting to the Committee proof of achieving the passing score on the TOEFL examination, or by certifying that he will employ the services of an interpreter at his own expense.

(4) The English Language Requirement.

(a) An applicant who passes the NCCA examination component, the CNT/Practical Examination component, or a Massachusetts oral examination component of the licensure examination in English shall be presumed by the Committee to have a sufficient knowledge of English as specified by M.G.L. c. 112, § 152.

(b) The Committee may, at its discretion, choose any of the following examinations to test proficiency in English: the TSE examination, the TOEFL examination, or the TOEIC examination. The Committee shall consult with the Educational Testing Service prior to setting a passing score. An applicant who passes the licensure examination in language other than English may only demonstrate proficiency in English through achieving the passing score set by the Committee on an examination chosen by the Committee.

(c) An applicant who fails to demonstrate proficiency in English shall provide the Committee with the name, address and credentials of the interpreter he intends to employ.

(d) A licensee who has failed to demonstrate proficiency in English may at any time demonstrate proficiency in English as in 243 CMR 5.02(4)(b). Until such time as a licensee demonstrates proficiency in English, the licensee shall employ the services of an interpreter whenever the licensee treats a patient with whom the language of communication is English, or whenever the licensee consults with a physician with whom the language of communication is English.

(e) A licensee who is required to employ the services of an interpreter shall keep a record of the dates the interpreter's services were employed. The licensee shall furnish a copy of this record to the Committee upon request. The cost of providing this copy shall be borne by the licensee. Should a licensee make any changes in whom he employs as an interpreter, he shall inform the Committee of the name, address and credentials of the new interpreter within one month of the change.

(5) Ways of Obtaining a Full License. There are three ways of obtaining a full license:

(a) by examination;

(b) by Committee endorsement of components of the licensure examination taken outside of Massachusetts;

(c) by being licensed in another state or foreign nation with which Massachusetts has a reciprocal licensing agreement.

(6) Licensure Examination in Massachusetts.

(a) The licensure examination consists of the following components:

1. the NCCA examination;

2. the CNT Course;

3. a Massachusetts oral and/or practical examination that the Committee may, at its discretion, require of applicants until such time as the NCCA institutes an oral and/or

practical component to its examination that is satisfactory to the Committee. The Committee shall decide by majority vote of the full Committee whether to hold a Massachusetts oral and/or practical examination in a given calendar year, which decision shall be binding upon all applicants who take the licensure examination within that calendar year. Any applicant may defer taking the Massachusetts oral and/or practical examination in a given calendar year, provided that a written statement indicating the applicant's intent to defer such an examination is submitted prior to the date of the examination which is being deferred. However, such applicant must take such examination on the next occasion on which it is offered in Massachusetts, after paying all applicable fees and submitting a new application to the Committee.

(b) An applicant must pass each of the examination components to pass the licensure examination. The passing score for the examination component shall be set by the NCCA and the passing scores shall not be known prior to the exam.

(a) Passing the NCCA examination and the CNT Course are prerequisites for taking any Massachusetts oral and/or practical examination required by the Committee.

(d) The Committee shall send examination results to the applicant. Verbal notification will not be given.

(7) Qualifications for Taking the Licensure Examination. To qualify to take the licensure examination an applicant shall submit a completed application form and the application fee no later than 90 days prior to the examination date, and shall have an educational background that conforms, in the judgment of the Committee, to the requirements listed in M.G.L. c. 112, § 152(d)(1), and 243 CMR 5.03(1) and 5.03(2).

(8) Conduct Prior to and During an Examination. Applicants who engage in the conduct described below shall have their test materials confiscated and shall be denied permission to complete the examination:

(a) removing test materials from the examination room; reproducing in any manner or aiding in the reproduction of test materials; selling, distributing, buying or having unauthorized possession of test materials;

(b) communicating with any other examinee during the examination; copying answers or permitting answers to be copied; having in one's possession any material other than the examination materials; failure to obey instructions to stop working; starting an examination prior to being authorized to do so;

(c) falsifying or misrepresenting educational credentials or other information required for admission to the examination; having another person take the examination on one's behalf.

(9) Committee Procedure for Evaluating Applications.

(a) If an application for full licensure by examination is complete and filed on time, the Committee will make a preliminary evaluation of the applicant's credentials and decide whether to allow the applicant to take the examination. The Committee will inform the applicant of its decision 30 days prior to the date of the licensure examination, when such notice is possible.

(b) Passing the licensure examination does not of itself entitle an applicant to be licensed. Upon receipt of an applicant's passing scores, the Committee shall review the applicant's application, and shall inform the applicant of its decision on licensure.

(c) At any stage during the review of an application, the Committee or its Licensing Subcommittee may require an applicant to provide additional information, or appear personally before the Committee, the Licensing Subcommittee, or their designated representative for the purpose of answering questions pertaining to the application.

(d) The Committee may, at its discretion, require an applicant to hire a credentials evaluation service approved by the Committee to evaluate the applicant's credentials of an applicant. The applicant shall pay for the evaluation.

(10) Committee Denial of Applications. The Committee will inform an applicant in writing of the reasons his application was denied. If the Committee denies an application for reasons other than an applicant's failing the licensure examination, the applicant may submit a written request within 60 days from the date of denial that the application be reconsidered by the Committee, stating the reasons why the Committee should reverse its decision. An applicant may submit a request for reconsideration only once, unless the applicant states additional facts or circumstances that the applicant was unaware of at the time he made his first request and that are relevant to the Committee's decision.

(11) Re-examination for Licensure.

(a) An applicant who fails any of the components of the licensure examination may reapply to take the failed components. An applicant must submit an application for re-examination, and the application and examination fees, no later than 90 days prior to the date of the examination.

(b) The Committee may require an applicant who fails the licensure examination or any of its components on two or more occasions to have further education or training which, in the judgment of the Committee, addresses the areas of deficiency.

(12) Endorsement of Examination Results.

(a) The Committee shall endorse the results of the NCCA examination or the CNT Course taken in another jurisdiction provided that the format or level of difficulty of a previous examination component is substantially the same as that of the current examination component, and provided also that the previous examination component was not administered in such a way as to compromise the integrity of the examination component.

(b) An applicant whose examination results have been endorsed by the Committee must comply with all other requirements for being licensed by examination in order to be licensed in Massachusetts.

(13) Licensure in Another State. An applicant for full licensure who holds a license to practice acupuncture in another state or foreign nation shall not be excused from any of the application requirements in M.G.L. c. 112 and 243 CMR 5.00 unless the Committee has entered into a reciprocal licensing agreement with that state.

(14) Temporary Licensure.

(a) The following individuals shall have a full or temporary license to practice acupuncture:

1. an instructor in a Committee approved internship program offered by a Committee approved school;
2. an instructor in an acupuncture educational seminar or program who demonstrates acupuncture techniques on patients;
3. a participant in a postgraduate clinical training program.

(b) To qualify for a temporary license as an instructor in a Committee approved internship program, an applicant shall have a temporary faculty appointment in a Committee approved school of acupuncture and shall have:

1. credentials equivalent to those necessary for full licensure; or
2. training and experience which, in the judgment of the Committee, are sufficient for an instructor in an internship program.

(c) To qualify for a temporary license as an instructor in an acupuncture educational seminar or program, an applicant shall have:

1. credentials equivalent to those necessary for full licensure; or
2. training and experience which, in the judgment of the Committee, are sufficient for an instructor of the acupuncture techniques to be demonstrated in the educational seminar or program.

(d) To qualify for a temporary license as a participant in a postgraduate clinical training program in acupuncture, an applicant shall be a graduate of a Committee approved acupuncture school, shall have been accepted into a postgraduate clinical training program, and shall have the undergraduate educational requirements specified in 243 CMR 5.03(1).

(e) Application for temporary licensure shall be made through the dean's office of the acupuncture school hiring the temporary licensee, through the organization sponsoring the acupuncture educational seminar or program, or through the institution sponsoring the postgraduate clinical training program on an application form provided by the Committee. Temporary licensure is for one year with renewal yearly for a maximum of two years. Completed applications must be submitted 60 days prior to the start of the internship program, educational seminar or program or postgraduate clinical training program.

5.03: Educational Requirements for Full Licensure

(1) Undergraduate Education.

(a) An applicant for full licensure shall successfully complete two full academic years (a minimum total of 60 semester accredited hours or 90 quarter accredited hours, or the equivalent) of undergraduate education at:

1. an accredited college or university;
2. an institution approved by the Massachusetts Department of Education; or
3. a foreign university or college that the Committee deems equivalent to an accredited college or university.

(b) An applicant's undergraduate or other postsecondary education must include the following:

1. three semester hours or the equivalent of general biology;
2. three semester hours or the equivalent of human anatomy;
3. three semester hours or the equivalent of human physiology.

(c) Any correspondence course in either biology, anatomy or physiology will not meet the educational requirements of 243 CMR 5.03(1)(b); except that any such course which an applicant began prior to December 1, 1988 and concluded by June 30, 1990, will meet said requirements.

(d) The postsecondary education shall have been completed at:

1. an accredited college or university;

2. a school which was first approved by the state department of education; or
3. a foreign university or college that the Committee deems equivalent to an accredited college or university.

(e) Foreign applicants whose post-secondary education combined acupuncture training with college level education must have a minimum of five full academic years of study, of which three full academic years must consist of acupuncture training in a Committee approved school.

(2) Acupuncture Educational Requirements. An applicant applying for licensure on the basis of successful completion of two years of training in one or more acupuncture schools shall have:

(a) graduated from a Committee approved acupuncture school, and

(b) shall have received a minimum of 1,350 hours of clinical/didactic instruction in acupuncture related courses, of which a minimum of 100 hours must be in the supervised diagnosis and treatment of patients for whom the applicant was solely responsible. Courses in anatomy, physiology and other basic sciences do not count towards the 1,350 hour requirement.

(c) Foreign applicants whose post-secondary education combined acupuncture training with college level education must have a minimum total of five full academic years of study, of which three full academic years must consist of acupuncture training in a Committee approved school.

(d) Effective January 1, 1996, an applicant applying for licensure shall have received a minimum of 30 hours of herbal medicine training from a Committee approved school or a Committee approved program.

(e) Licensees who obtain licensure prior to September 1, 1995, and wish to employ herbal therapy, including patent or raw herbs, must submit evidence of completion of 150 hours of herbal training in one of the following by January 1, 1998:

1. a NACSCAOM accredited or candidate status oriental medicine program; or
2. an herbal medicine program offered by a NACSCAOM accredited or candidate status school; or
3. an herbal medicine program which the Committee deems is substantially equivalent to or exceeds the quality level of programs listed in 243 CMR 5.03(2)(e). Licensees who do not provide evidence of completion of 150 hours of herbal training by January 1, 1998, will be governed by 243 CMR 5.03(2)(f).

(f) A licensee who is licensed on or after September 1, 1995, and who did not provide evidence of completion of 150 hours of herbal training pursuant to 243 CMR 5.03 (2)(e), may employ herbal therapy, including patent or raw herbs, during the course of treatment if such licensee has obtained Committee approval to employ herbal therapy. A licensee may obtain Committee approval by submitting evidence of one of the following:

1. completion of a NACSCAOM accredited or candidate status oriental medicine program; or
2. completion of an herbal medicine program offered by a NACSCAOM accredited or candidate status acupuncture school that meets the curriculum requirements as described in the NACSCAOM Accreditation Handbook; or
3. completion of an herbal medicine program which the Committee deems is substantially equivalent to or exceeds the NACSCAOM curriculum requirements

regarding herbal medicine as described in the NACSCAOM Accreditation Handbook. 243 CMR 5.03(2)(f) is effective January 1, 1998.

(3) Applicants Lacking Required Hours. If an applicant for licensure that might otherwise be qualified to sit for the licensure examination has fewer than the number of hours of acupuncture training required by 243 CMR 5.03(2), the applicant may request in writing that the Committee allow the applicant to make up the deficiency at a Committee approved school of acupuncture. In the request to the Committee, the applicant shall state the courses that he plans to take and the number of hours of instruction that he will receive. The Committee may, at its discretion, approve the applicant's request or make alternative suggestions. The Committee may grant the applicant provisional approval to sit for the licensure exam pending completion of the required hours of acupuncture education specified under 243 CMR 5.03(2).

5.04: Committee Approval of Acupuncture Schools and Clinical Programs

(1) Committee Approval of Acupuncture Schools.

(a) The Committee may approve an acupuncture school, if the school:

1. is accredited by NACSCAOM, or by a federally approved accrediting agency that the Committee deems an appropriate agency for accrediting graduate schools in acupuncture; or,

2. has candidacy status with NACSCAOM, or with a federally approved accrediting agency that the Committee deems an appropriate agency for granting candidacy status to graduate schools in acupuncture.

3. An acupuncture school must be a Committee approved school on the date the applicant graduates (i.e. the school must have NACSCAOM accreditation or candidacy status). Upon request, the Committee may waive this requirement for good cause.

(b) The Committee may, notwithstanding 243 CMR 5.04(1)(a)2., specify that accreditation be the sole criterion for school approval if the Committee determines that having candidacy status does not guarantee that a school meets the educational standards of the Committee.

(c) An acupuncture school located within the United States, Puerto Rico, the District of Columbia, or territory of the United States shall not be approved by the Committee unless it is accredited or has candidacy status in accordance with 243 CMR 5.04(1)(a).

(d) The Committee may, on its own or at the request of an applicant or an acupuncture school, approve an acupuncture school which does not qualify for approval in accordance with 243 CMR 5.04(1)(a) and which is located outside of the United States, Puerto Rico, the District of Columbia, and the territories of the United States. The Committee shall base the approval of a school on the criteria listed in 243 CMR 5.04(1)(e). An acupuncture school shall apply for approval on an application form supplied by the Committee. The Committee may waive the application requirement if the Committee determines that it has sufficient information about a school to review the school.

(e) The Committee may consider, in approving a foreign acupuncture school, the following criteria:

1. school approval, accreditation, or licensure by a department of government in a foreign country, or by an international organization;

2. a curriculum that substantially meets or exceeds the Committee's minimum educational requirements, as listed in 243 CMR 5.03(2);
3. a curriculum that conforms substantially to the CCAOM "Minimum Core Curriculum for Acupuncture Schools and Colleges," revised and accepted by the CCAOM in June 1983, or to any other curriculum that the Committee may adopt at its discretion.
4. a curriculum that has a survey course on Western medicine, including such topics as Western medical terminology, pathology, and emergency and routine situations requiring Western medical intervention.
5. the training and experience of faculty members;
6. the adequacy of facilities for didactic and clinical instruction;
7. a clinical program that meets the Committee's standards for approval, as listed in 243 CMR 5.04(2);
8. other relevant criteria.

(f) If the Committee decides that it has insufficient information or is otherwise unable to grant approval on the basis of a school's application for approval and other written materials, the Committee may request permission to conduct an on-site visit pursuant to approving an acupuncture school. All expenses for the visit must be paid for by the school.

(g) The Committee may periodically reapprove acupuncture schools which are not approved under 243 CMR 5.04(1)(a), and may withdraw approval from a school if the Committee finds that the school no longer meets the Committee's standards for approval. If the Committee determines that the educational standard of an accredited school or a school with candidacy status is insufficient, the Committee may withdraw approval from the school. If the Committee withdraws approval from a school, the Committee shall inform the school in writing of the reasons for withdrawing approval. The school may submit a written request within 60 days from the date approval is withdrawn that the Committee reconsider its decision, stating the reasons for doing so.

(h) A school approved under 243 CMR 5.04(1)(a) shall apprise the Committee of any change in its accreditation or candidacy status within 14 days after the school receives notification that its status has changed, and shall verify reaccreditation when granted at the end of each accreditation period. A school approved under 243 CMR 5.01(a) shall send new catalogues, bulletins, and application materials when published, and shall respond promptly to any requests for information from the Committee. The Committee may withdraw approval from a school approved under 243 CMR 5.04(1)(a) which fails to provide information to the Committee that the Committee needs to evaluate the applications for licensure of graduates of the school.

(i) An approved school, other than a school approved under 243 CMR 5.04(1)(a) shall: apprise the Committee annually of changes in curriculum, faculty, requirements, and other matters pertinent to granting Committee approval, send the Committee new catalogues, bulletins, and application materials when published; and respond promptly to any requests for information from the Committee. The Committee may withdraw approval from a school which fails to provide information to the Committee that the Committee needs to evaluate the applications for licensure of graduates of the school.

(2) Committee Approval of Internship Programs.

(a) The Committee shall approve internship programs of Committee approved acupuncture schools. To be approved by the Committee, the internship program shall provide a minimum of 600 hours of clinical training in acupuncture, as defined by 243 CMR 5.04(2)(b), and shall meet the requirements for internship programs listed in 243 CMR 5.04(2)(c) and 5.04(3)(a).

(b) Clinical training in acupuncture is defined as:

1. observation and discussion of acupuncture diagnoses and treatments performed on patients;

2. needle insertion and other acupuncture techniques on individual under the direct observation of instructors, and the practice of sterile technique in the clinic;

3. diagnosis and treatment of patients under the direct supervision of a clinical instructor who is a faculty member of the school, culminating in each individual student conducting complete evaluations, designing treatment plans, and carrying out treatments on individual patients for whose care the student is solely responsible.

(c) The following are the requirements for Committee approval of an internship program:

1. Of the total 600 hours of required clinical training, each student shall have spent a minimum of 100 hours in the supervised diagnosis and treatment of patients for whom the student is solely responsible, as described in 243 CMR 5.04(2)(b)3.

2. A clinical instructor shall have under his supervision at any one time no more than ten students who are fulfilling the 100 hour requirement in 243 CMR 5.04(2)(c)1.

3. No more than one other student shall be present in a treatment room during the time that a student is fulfilling the 100 hour requirement in 243 CMR 5.04(2)(c)1., except for brief periods of time to observe conditions which a supervisor determines to be of educational value.

4. A clinic affiliated with an acupuncture school shall have on its staff at least one school-appointed adjunct faculty member who directly supervises interns.

5. A clinic affiliated with a school shall offer clinical instruction in accordance with a written set of criteria developed by the school, and clinical instructors and students shall be evaluated regularly by the school to ensure that the internship program operates in accordance with the criteria and consistently with other internship programs offered by the acupuncture school.

(d) If the Committee decides that it has insufficient information or is otherwise unable to grant approval on the basis of written materials, the Committee may conduct an on-site visit pursuant to approving an internship program. All expenses for the visit shall be paid for by the acupuncture school offering the program.

(e) The Committee may periodically reapprove internship programs and may withdraw approval from a program if the Committee finds that the program no longer meets the requirements listed in 243 CMR 5.04(2) and 5.04(3). If the Committee withdraws approval from an internship program, the Committee shall inform the school in writing of the reasons for withdrawing approval. The school may submit a written request within 60 days from the date approval is withdrawn that the Committee reconsider its decision, stating the reasons for doing so. Acupuncture schools offering approved internship programs shall apprise the Committee annually of changes in the programs, such as changes in requirements or material covered.

(3) Additional Requirements for Internship Programs Located in Massachusetts.

(a) In addition to the requirements for internship programs listed in 243 CMR 5.04(2)(c), internship programs located in Massachusetts shall also meet the following requirements:

1. Clinical instructors shall be duly appointed faculty members of the acupuncture school, have full or temporary licenses, and be directly responsible for the actions of interns;

2. Interns participating in supervised clinical training as defined by 243 CMR 5.04(2)(b)3. shall be currently enrolled in and shall have completed one full year of study in a Committee approved acupuncture school.

3. Interns shall be under direct faculty supervision;

4. Interns shall be identified as such to patients, and patients shall agree in writing to be treated by interns;

5. Each patient treated by an intern shall have a written referral or written diagnosis from a licensed physician, doctor of osteopathy or dentist, as required by M.G.L. c. 112, § 161, and 243 CMR 5.00;

6. The regulations governing safe practice, 243 CMR 5.08, and other applicable regulations and guidelines shall be observed in the clinic.

(b) An intern in Massachusetts who participates in a internship program that is not located in a clinic operated on the premises of a Committee approved school shall be registered with the Committee by the school in which the intern is enrolled.

(c) If the Committee determines that an internship program is being operated in violation of applicable regulations and guidelines, the Committee shall inform the acupuncture school with which the internship program is affiliated of the nature of the violations and the time in which the violations must be corrected. If the violations are not corrected the Committee may order that the program be discontinued. The Committee may, if the Committee determines that the health, safety or welfare of the public is threatened, order that the program be discontinued until the Committee is satisfied that any violations have been corrected.

(4) Postgraduate Clinical Training Programs.

(a) The Committee may approve postgraduate clinical training programs in Massachusetts sponsored by Committee approved acupuncture schools, hospitals licensed by the Joint Commission for the Accreditation of Hospitals, and other organizations that the Committee, in its discretion, deems appropriate to sponsor postgraduate clinical training programs in acupuncture in Massachusetts.

(b) An individual participating in postgraduate clinical training shall:

1. have a temporary license to practice acupuncture in Massachusetts;

2. be a graduate of a Committee approved acupuncture school;

3. be identified to patients orally and with a name tag as a postgraduate clinical trainee. The patient shall also be advised of the right to refuse treatment by a clinical trainee.

(c) An institution which offers postgraduate clinical training shall:

1. comply with all applicable regulations and guidelines governing the practice of acupuncture;

2. provide the Committee with a detailed written description of the training program, and apprise the Committee of any changes that are made in the program;

3. have clinical instructors who are licensed acupuncturists, whose credentials are sufficient to instruct and supervise postgraduate clinical trainees, and who are directly responsible for supervising the diagnosis, treatment and evaluation of every patient treated by the postgraduate clinical trainee;

(d) The Committee may, at the expense of the institution offering the postgraduate clinical training program, conduct an onsite visit to decide whether to approve a postgraduate training program, and to determine whether the institution is in compliance with 243 CMR 5.04(4)(b) and (c). The Committee may 1) summarily suspend, or 2) suspend a program if the Committee determines that the program is not in compliance.

(5) Reciprocal Approval Agreements. The Committee may enter into reciprocal agreements with other states to facilitate the approval of schools and clinical programs.

5.05: Application Provisions

(1) Contents of the Application Form for a Full License.

The Committee's application form for a full license will request the following information:

(a) the applicant's name; date and place of birth; and home address, mailing address and principal business address;

(b) the applicant's social security number (optional);

(c) a photograph of the applicant adequate for positive identification;

(d) a written statement asserting that the applicant is of good moral character. This statement must be executed by someone who is unrelated to the applicant and who has known the applicant well and for a minimum of three years, preferably an acupuncturist licensed to practice in Massachusetts;

(e) a statement of the applicant's involvement in civil litigation related to the practice of acupuncture, and any criminal litigation;

(f) a statement of any disciplinary action taken against the applicant;

(g) a statement of the other jurisdictions in which the applicant is or has been licensed to practice acupuncture, including license numbers and issue dates;

(h) a statement of the results of any acupuncture licensure examination the applicant has taken;

(i) a statement of the applicant's physical and mental health, including an explanation of any dysfunction impairing him as a student or practitioner of acupuncture;

(j) a description of the applicant's clinical acupuncture training and experience;

(k) a description of the applicant's acupuncture work experience and, where applicable, supporting documentation;

(l) an official transcript sent directly from the applicant's undergraduate college or university;

(m) an official transcript sent directly from the applicant's acupuncture school;

(n) where applicable, proof of sufficiency in the English language or the applicant's signed agreement to use an interpreter, and the interpreter's credentials, name and address.

(2) Contents of the Application Form for Re-Examination. The Committee's application form for re-examination in Massachusetts consists of the original application updated on a form provided by the Committee.

(3) Contents of the Application Form for License Renewal.

The Committee's renewal application form will request the following information:

- (a) the applicant's name, date of birth, and home address, mailing address and principal business address;
- (b) a statement of the applicant's acupuncture training, and any hospital or clinic affiliations;
- (c) a statement of any disciplinary action taken against the applicant since the last time the licensee submitted either a renewal application or an initial application for licensure;
- (d) a statement of any civil litigation related to the practice of acupuncture, or any criminal litigation commenced against the applicant since the last time the licensee submitted either a renewal application or an initial application for licensure;
- (e) a statement of other jurisdictions in which the applicant is licensed to practice;
- (f) a description of continuing acupuncture education courses taken by the applicant since the last time the licensee submitted either a renewal application or an initial application for licensure, and evidence of having registered for the courses, such as canceled checks.

(4) Contents of an Application Form for a Temporary License.

The Committee's application form for a temporary license will request the following information:

- (a) the applicant's name, date of birth, and home address and mailing address;
- (b) a statement describing the applicant's training, work experience, and teaching experience, and an original copy of the applicant's credentials sent directly from the granting institution;
- (c) where applicable, a description of the applicant's apprenticeship training and supporting documentation;
- (d) a description of the clinical courses the applicant will teach, or the acupuncture educational seminar or program the applicant will lead;
- (e) If applicable, the signature of the dean of the acupuncture school hiring the applicant, and the school's seal;
- (f) the applicant's social security number (optional);
- (g) a photograph of the applicant adequate for positive identification;
- (h) a statement of the applicant's involvement in civil litigation related to the practice of acupuncture, and any criminal litigation;
- (i) a statement of any disciplinary action taken against the applicant;
- (j) a statement of the other jurisdictions in which the applicant is or has been licensed to practice acupuncture, including license numbers and issue dates;
- (k) a statement of the applicant's physical and mental health, including an explanation of any dysfunction impairing him as a practitioner of acupuncture.

(5) Applicants Who Have Changed Their Names. If the applicant's name, as it appears on the application, differs from the applicant's name, as it appears on any of the documents or prior applications he has submitted, then the following provisions apply:

- (a) If an applicant changed her name because of marriage in the United States, the applicant shall submit a certified copy of the marriage certificate;
- (b) If an applicant was married outside of the United States, the applicant shall submit a notarized copy of her original marriage certificate;

(c) If an applicant's name has been changed by a court order, the applicant shall submit a certified copy of the court order;

(d) If for some other reason an applicant uses a name other than the name on the documents he is required to submit, the applicant shall submit a notarized affidavit which explains the reason for the use of a different name.

(6) Translations Required. All documentation submitted in a language other than English shall be accompanied by a translation into English prepared at the applicant's expense by a translation service approved by the Committee. The translator shall attest to the accuracy of the translation under penalty of perjury.

(7) Submission of Original Documents. Each applicant shall have original documents sent directly from the issuing institution. Under appropriate circumstances, the Committee may, at its discretion, allow individuals to submit an original document along with a photocopy, or an affidavit in lieu of an original document.

(8) Completed Application Forms.

(a) The Committee considers an application complete only if it meets the following requirements:

1. It is typewritten or written legibly;
2. All data, information and signatures requested are supplied as specified;
3. The proper fee is submitted;
4. The applicant has submitted any additional material the Committee has requested.

(b) The Committee will return an incomplete application to the applicant, or notify the applicant of deficiencies. It is the applicant's responsibility to resubmit the application when it is complete.

(c) Any application which is not completed by the applicant within 12 months of initial receipt by the Committee shall be deemed lapsed. In such circumstances, an applicant must file a new application, inclusive of proper fee, in order to be considered for licensure. Any application which is otherwise complete, except for the applicant's deferral of the Massachusetts oral and/or practical examination, pursuant to 243 CMR 5.02(6)(a)3., is not deemed lapsed.

5.06: Fees

(1) Payment of Fees. All examination fees must be in the form of a United States certified check or money order, made payable to the Commonwealth of Massachusetts in the required amount. Other fees may be paid with a personal check.

(2) Forfeiture of Fees.

(a) If an applicant submits an application, the Board processes it, and the applicant withdraws the application, the applicant forfeits the application and examination fees.

(b) If an applicant is denied permission to take the licensure examination, his fee will be returned minus the application fee.

(c) If an applicant submits an application which is deemed lapsed, pursuant to 243 CMR 5.05(8)(c), the applicant forfeits the application and examination fees.

5.07: Renewal Provisions

(1) Requirements for Renewal of a Full License.

(a) Pursuant to M.G.L. c. 112, § 156, a full licensee must renew his license every two years. The renewal date is the licensee's birthday. The first renewal date is in the second year following the year in which the full license was granted, unless that date is within 15 months of the date the license was originally granted, in which case the first renewal date is in the third year following the year in which the license was granted.

(b) The following are the requirements for renewal of a full license:

1. A licensee must submit to the Committee a completed renewal application form and the proper fee prior to the renewal date;

2. A licensee must fulfill the continuing acupuncture education requirement as defined in 243 CMR 5.07(5), or obtain a waiver from the Committee pursuant to 243 CMR 5.07(6).

(2) Consequences of Failure to Renew a Full License.

(a) If a licensee fails to renew her full license, the license is automatically revoked pursuant to M.G.L. c. 112, § 156 and 243 CMR 5.00. A licensee may fail to renew her license within the meaning of 243 CMR 5.07 in a variety of ways including, but not limited to, the submission of an incomplete application. Revocation for failure to renew prohibits the licensee from practicing acupuncture until she has completed the renewal requirements.

(b) Notwithstanding 243 CMR 5.07(1) and (2)(a), a licensee who in good faith believes she has submitted to the Committee a completed renewal application form and the proper fee prior to the renewal date may continue to practice acupuncture until the Committee informs her that the renewal application does not conform to the requirements of M.G.L. c. 112, § 156 and 243 CMR 5.00.

(c) If the Committee makes an initial determination that a full licensee has failed to comply with the requirements for the renewal of her license, the Committee shall so inform her, and shall either:

1. allow her a reasonable period of time to correct any deficiencies; or
2. allow her to request a hearing before making its final determination.

(d) The Committee may, at its discretion, withhold permission to practice acupuncture pending its final determination.

(e) A licensee who allows her license to lapse for more than two years shall be required to submit an original application for full licensure. The Committee may, at its discretion, require as a condition for relicensure that the licensee complete all or part of the continuing acupuncture education requirements that have accrued, or retake the licensure

(3) Time Periods and Extensions of Deadlines. The Committee shall mail a licensee a renewal application 60 days prior to the renewal date. If the Committee fails to mail the renewal application in a timely manner, the licensee shall have 60 days from the date the application is sent to renew his application.

(4) Requirements for Inactive Status.

(a) A full licensee may request inactive status at any time. A licensee must make his request in writing to the Committee and certify that he will not practice acupuncture in Massachusetts. An inactive licensee is exempt from the continuing acupuncture education requirements set forth in 243 CMR 5.07(5), but is subject to all other provisions of 243 CMR 5.00.

(b) An inactive licensee may request in writing at any time that the Committee permit him to return to active status. The Committee shall grant such a request, provided that the licensee:

1. renews his license if it has lapsed during the period of inactivity;
2. satisfies any continuing acupuncture education requirements that the Committee deems appropriate.

(5) Continuing Acupuncture Education Requirements.

(a) A full licensee is required to complete 30 hours of continuing acupuncture education in a Committee approved acupuncture program or course, or other Committee approved activity related to acupuncture (this may include certain courses in Western medicine or certain professional activities), during each two year period that begins on the date that his or her license is issued or renewed by the Committee and ends on the following renewal date as a condition of renewal of his or her license. At least 15 hours shall be spent in courses directly related to acupuncture.

(b) The Committee may approve courses, programs and activities used to satisfy the continuing acupuncture education requirement, provided that:

1. A complete record of attendance is maintained on file by the sponsor of the course, program or activity;
2. The content of the course, program or activity is related to the practice of acupuncture, as defined in 243 CMR 5.00;
3. The course, program or activity has clearly stated educational or professional objectives that can be realistically accomplished;
4. All instructors have adequate credentials.

(c) All requests for Committee approval of courses, programs and activities shall be made in writing to the Committee, and the Committee shall be furnished with materials describing the course, program or activity.

(6) Waiver of Continuing Acupuncture Education Requirements.

(a) A full licensee may apply to the Committee for a waiver of the portion of his continuing acupuncture education requirements he cannot meet. A licensee shall submit his waiver request to the Committee no later than 30 days prior to the renewal date. The waiver shall contain the following information and be signed under the penalties of perjury:

1. an explanation of the licensee's failure to complete his continuing acupuncture education requirements;
2. a list of the continuing acupuncture education courses and hours that the licensee has completed;
3. the licensee's plan for satisfying his continuing acupuncture education requirements.

(b) The Committee may, at its discretion, grant a waiver of a continuing acupuncture education requirement. The grounds for waiver include prolonged illness and the inaccessibility or unavailability of suitable courses or activities. Such a waiver may be granted for a maximum of one licensing period.

5.08: Safe Practice Provisions

(1) In General. 243 CMR 5.08 contains the Committee's requirements for licensees, acupuncture interns, and acupuncture assistants concerning the safe practice of

acupuncture. The Committee may, at its discretion, issue additional requirements or guidelines that shall be observed by licensees, interns and assistants.

(2) Sterilization.

(a) All nondisposable needles, acupuncture equipment that comes into contact with the patient's blood or body fluids, or penetrates the skin, and equipment used to handle or store needles or other acupuncture equipment that comes into contact with the patient's blood or body fluids, or penetrates the skin shall be sterilized after each use. All equipment to be sterilized shall be thoroughly cleaned before sterilization with a disinfectant or cleansing solution.

(b) Sterilization equipment shall be used and maintained strictly in accordance with the guidelines of the manufacturer of the equipment. Use of one of the following methods of sterilization is required:

1. autoclaving with pressurized steam;
2. dry heat sterilization; or
3. ethylene oxide gas sterilization.

(c) The following methods of sterilization are unacceptable: boiling acupuncture equipment, soaking acupuncture equipment in alcohol or other antiseptic solution, or using a glass bead sterilizer.

(d) Sterilization equipment shall be monitored regularly in accordance with the manufacturer's guidelines to determine whether the equipment is functioning properly.

(e) Sterilized acupuncture equipment shall be clearly marked to distinguish it from unsterilized equipment. Sealed packages containing sterilized equipment shall be marked with an expiration date. Any equipment that is not used on the day the equipment was removed from a sterilization package shall be resterilized before use.

(f) All needles to be disposed of shall be sterilized before disposal. After sterilization the needles shall be placed in a rigid, puncture-proof sealed container for disposal. Disposal containers shall be labeled as such, and shall carry the warning "CONTAMINATED CONTENTS--USE PRECAUTIONS." Disposal containers shall be wiped with a suitable disinfectant if blood or other bodily fluids are spilled on the outside. Disposal containers shall be discarded appropriately.

(g) The parts of a patient's body to be treated shall be swabbed with alcohol or an antiseptic agent prior to needle insertion or any procedure which breaks the skin.

(3) Use of Disposable Needles.

(a) Before beginning the first treatment on a new patient, a licensee who normally uses nondisposable needles shall inform the patient that the patient has the right, if he so chooses and at his expense, to have acupuncture performed with disposable acupuncture needles.

(b) If, in the course of treatment of a patient, a licensee learns that the patient has AIDS, hepatitis, or another blood-borne highly infectious disease, or has tested positive for the HTLV-III virus, then the licensee shall use disposable needles in treating the patient.

(4) Use of Electrical Stimulation. Electrical stimulation shall not be applied across the midline of the trunk of body. Electrical stimulation shall not be used on patients with pacemakers, on patients with a medical history of heart trouble, or in a way that otherwise violates good and acceptable practice.

(6) Use of Lasers. Lasers and other regulated devices may only be used in the practice of acupuncture in accordance with F.D.A. regulations and any other relevant laws and regulations.

5.09: Miscellaneous Provisions

(1) Advertising by a Licensee.

(a) A licensee may advertise for patients by means which are in the public interest. Advertising which is not in the public interest includes the following:

1. advertising which is false, deceptive, or misleading;
2. advertising which has the effect of intimidating or exerting undue pressure;
3. advertising which guarantees a cure;
4. advertising which makes claims of professional superiority which a licensee cannot substantiate.

(b) A licensee may advertise fixed prices, or a stated range of prices, for a specified routine professional service, provided such advertisement clearly states whether additional charges may be incurred for related services which may be required in individual cases.

(c) A licensee may advertise in electronic media, including television and radio, provided that she maintain a complete, accurate, and reproducible version of the audio and visual contents of that advertising for a period of three years. The licensee shall furnish the complete copy of this advertising to the Committee upon request. The cost of maintaining and providing this advertising copy shall be borne by the licensee.

(d) A licensee shall use the the title "Licensed Acupuncturist" or "Lic.Ac." alongside her name on any advertising or other materials visible to the public which pertain to the licensee's practice of acupuncture.

(e) A licensee may not represent that she holds a Ph.D., O.M.D., M.A. or other doctoral or masters degree in the field of acupuncture and/or oriental medicine unless the educational program which awarded the degree is:

1. approved by the NACSCAOM or another Committee approved federal accrediting agency to grant doctoral or masters degrees, and is permitted to grant such a degree by a state board or other authority of higher education that the Committee deems appropriate to grant such permission; or
2. approved by the ministry of education of a foreign country to grant doctoral or masters degrees, and the Committee determines the degree to be equivalent to the same degree approved by the NACSCAOM or another Committee approved federal accrediting agency.

(f) A licensee who has a Ph.D. or a Masters degree in a field other than acupuncture or oriental medicine may, in any advertising or other materials visible to the public pertaining to the licensee's acupuncture practice, include the degree provided that the field in which the degree was awarded is specified without using an abbreviation (e.g., Ph.D., Musicology).

(g) A licensee who has a Ph.D. in a field other than acupuncture or oriental medicine may not, under any circumstances, use the title "doctor" in any advertising or other materials visible to the public pertaining to the licensee's acupuncture practice.

(h) A licensee may not represent that she holds a degree from an acupuncture school other than that degree which appears on her application for licensure and has been

verified in accordance with the Committee's requirements, unless the additional degree has been also verified in accordance with the Committee's requirements.

(2) Removal of Acupuncture Interns from Internship Programs.

The Committee may forbid an acupuncture student to participate in an internship program if the Committee finds upon proof satisfactory to the Committee that the acupuncture student engaged in any of the practices listed in M.G.L. c. 112, § 158, or 243 CMR 4.03(5)(a).

(3) Patient Records.

(a) A licensee shall keep a complete and accurate acupuncture record of each patient the licensee treats. The record shall include: the name and address of the patient, a copy of a physician's written referral or written diagnosis for the patient, the licensee's evaluation of the patient, the treatments given including the points needed, and the fee charged for the treatments. A licensee must maintain a patient's acupuncture record for a minimum period of seven years from the date of the last acupuncture treatment.

(b) At a patient's request, a licensee shall provide the patient or another specifically authorized person with the following:

1. a summary of the patient's record, including all data deemed necessary by the patient or the specifically authorized person;

1. a copy of the entire acupuncture record; or

3. a copy of any previously completed report required for third party reimbursement.

(c) A licensee may charge a reasonable fee to cover the expense of providing the material listed in 243 CMR 5.09(3)(b); however, a licensee may not require payment for previously rendered acupuncture treatment as a condition for providing the material.

(d) A licensee who moves away from Massachusetts or assumes inactive status must:

1. retain patient records in accordance with 243 CMR 5.09(3), and notify the Committee as to any change in address for a period of seven years; or

2. turn over to a successor or business partner patient records, which the successor or business partner agrees to retain in accordance with 243 CMR 5.09(3).

(4) Requirement to Respond to the Committee. Unless otherwise ordered by the Committee, a licensee shall respond within 30 days to a written communication from the Board, Committee or designee of the Board or Committee, and shall provide the Board or Committee with any relevant records or other material with respect to an inquiry or complaint about the licensee's professional conduct. The 30 day period begins on the date the Board sends the communication by registered or certified mail with return receipt requested to the licensee's last known address.

(5) Display of License. A licensee is required to display conspicuously his license certificate in his office.

(6) Written Referral/Written Diagnosis Requirement.

(a) A licensee shall not begin acupuncture treatment on a patient unless the patient has a written referral for acupuncture treatment or a written diagnosis from a physician, doctor of osteopathy, or dentist.

(b) The written referral or written diagnosis for acupuncture treatment shall be based upon an examination by a physician, doctor of osteopathy or dentist, which examination shall have occurred within one year of the initial acupuncture treatment.

(c) Good Samaritan Provision. A licensee may use his skills to apply first aid in life-threatening situations while further emergency medical care for the patient is being sought.

(7) Change of Address. Whenever a licensee changes his home address, principal business address, or mailing address, he shall notify, in writing, the Committee of his new address within 30 days.

(8) Acupuncture Assistants.

(a) A licensee may employ the services of unlicensed assistants in accordance with the following requirements:

1. A licensee is responsible for the performance of assistants;

2. A licensee may supervise no more than two assistants at any one time;

3. A licensee shall inform the Committee of the name of any assistant he employs, and shall forward proof to the Committee that the assistant has received training in accordance with 243 CMR 5.09(8)(a)9.;

4. An assistant shall be at least 18 years of age;

5. An assistant whose native language is other than English may be required to demonstrate proficiency in English through an examination chosen by the Committee in accordance with 243 CMR 5.02(4)(b), or make use of an interpreter hired by the licensee in accordance with 243 CMR 5.02(4)(d) and (e);

6. An assistant shall not do any of the following procedures involving patients: diagnosis, point location, needle insertion, manipulation, electrical stimulation, render advice to patients, or perform any other procedure requiring a similar degree of judgment or skill;

7. An assistant may only do the following procedures involving patients: cupping, moxibustion, needle removal, gua-sha, and the massaging of points.

8. An assistant shall wear a tag which identifies him as an acupuncture assistant to patients.

9. An assistant shall have successfully completed a course or other training approved by the Committee in sterilization procedures and techniques before beginning work as an assistant.

(b) If the Committee determines that an assistant or licensee has not complied with 243 CMR 5.09(8)(a), or that the assistant has committed any offense listed in M.G.L. c. 112, § 158 or 243 CMR 4.03(5)(a), the Committee may:

1. withdraw the assistant's permission to work as an acupuncture assistant;

2. withdraw the licensee's permission to hire acupuncture assistants;

3. discipline the licensee pursuant to 243 CMR 4.00 and M.G.L. c. 112, § 158.

(9) Retirement from the Practice of Acupuncture.

(a) A licensee shall notify the Committee of the date he plans to retire from the practice of acupuncture. If there are no outstanding complaints against the licensee, the licensee may retire on that date. A retired licensee may still be disciplined under 243 CMR 4.00 after the date of his retirement.

(b) A retired licensee, his successor or his estate, must retain patient records for a minimum period of seven years, and must make them available to former patients and other individuals in accordance with 243 CMR 5.09(3).

(10) Discrimination Against Recipients of Public Assistance Prohibited.

(a) A licensee may not discriminate against a person seeking acupuncture services solely because the person is a recipient of public assistance. 243 CMR 5.09(10) prohibits a licensee from acting differently toward a recipient of public assistance in any material manner, and requires a licensee to provide acupuncture services of the same quality and in the same manner to a recipient of public assistance as he would to any other person in similar circumstances who is not a recipient of public assistance.

(b) 243 CMR 5.09(10) does not prevent a licensee from limiting her practice to the treatment of certain types of physical problems or the use of certain procedures, so long as the limitations on the licensee's practice are made public, nor does this rule prevent a licensee from seeking reasonable evidence prior to providing acupuncture services that a person has the ability to pay for them.

5.10: Transitional Regulations

(1) Introductory Provisions.

(a) 243 CMR 5.10 contains transitional regulations governing the practice of acupuncture in Massachusetts. 243 CMR 5.10 is to be read in conjunction with 243 CMR 5.01 to 5.09. The transitional regulations will be in effect until December 31, 1990; 243 CMR 5.10(7), 5.10(8) and 5.10(9) may, however, be extended at the Committee's discretion.

(b) The purposes of the transitional regulations are:

1. to specify the circumstances under which an acupuncturist may practice prior to the time he becomes licensed under the provisions in the acupuncture statute and the acupuncture regulations;

2. to specify interim rules governing disciplinary proceedings against acupuncturists.

3. to implement M.G.L. c. 112, §§152(d)(3) and 152(d)(4), which state two other ways that practicing acupuncturists may qualify for full licensure in addition to the ways listed in 243 CMR 5.02(5);

4. to specify educational and other requirements for applicants who apply for licensure on the basis of apprenticeship training;

5. to enumerate temporary requirements for applicants and full licensees.

(c) "Regulations contained in 243 CMR 4.00 and 243 CMR 5.00 that refer to a 'licensee' or 'full licensee' shall apply also to an acupuncturist registered with Board under 243 CMR 2.07(1) and practicing acupuncture in Massachusetts."

(2) Practice Prior to Licensure.

(a) An acupuncturist who was practicing in Massachusetts prior to the effective date of 243 CMR 5.00 and who fails to apply for licensure on or before the application deadline for taking the first licensure examination shall, from the date of the application deadline, be forbidden to practice acupuncture unless licensed in Massachusetts.

(b) An acupuncturist who was practicing in Massachusetts prior to the effective date of 243 CMR 5.00 and who applies for licensure on or before the application deadline for taking the first licensure examination may continue to practice in accordance with Board regulation 243 CMR 2.07(1) and 243 CMR 5.10(3). An acupuncturist practicing in accordance with 243 CMR 2.07(1) and 243 CMR 5.10(3) must cease practice only after: 1) failing or not taking the first and second announced licensure examinations, or

2) after not reapplying for licensure by the deadline for applying to take the second licensure examination.

(c) Notwithstanding 243 CMR 5.10(2)(a) and (b), the Committee shall deny permission to practice acupuncture prior to licensure to an acupuncturist whose credentials are insufficient to qualify him for licensure under M.G.L.

c. 112 and 243 CMR 5.00. An acupuncturist so denied permission may, within 60 days from the date of denial, request in writing that he be allowed to appear before the Committee.

(d) An acupuncturist who was not registered with the Board and was not practicing in Massachusetts on and before the effective date of 243 CMR 5.00 may practice acupuncture only if licensed under M.G.L. c. 112 and 243 CMR 5.00.

(3) Practice under 243 CMR 2.07(1).

(a) An acupuncturist, who is registered with the Board and who is practicing prior to licensure, must comply with Board of Registration in Medicine regulation 243 CMR 2.07(1). From the effective date of 243 CMR 5.00, compliance with 243 CMR 2.07(1) means the following:

1. An acupuncturist shall only treat patients who are given a preliminary examination by a licensed physician, doctor of osteopathy or dentist prior to acupuncture treatment, and who have a written referral from the physician, doctor of osteopathy or dentist for acupuncture treatment stating the reasons for the treatment;

2. An acupuncturist shall refer a patient to a physician if the patient has a medical problem that the acupuncturist is unable to treat.

(4) Disciplinary Proceedings. An acupuncturist who is registered with the Board but not yet licensed by the Committee may be subject to disciplinary proceedings before the Committee. The acupuncturist's permission to practice may be suspended or revoked, and the acupuncturist may be censured or reprimanded. The grounds for disciplinary proceedings shall be those listed in M.G.L. c. 112, §§ 61 and 158; the Board and Committee shall abide by the "Rules of Procedure Governing Disciplinary Actions for Acupuncturists" in 243 CMR 4.00.

(5) Obtaining Full Licensure under M.G.L. c. 112, §§ 152(d)(3) and 152(d)(4).

(a) For the purposes of 243 CMR 5.10(5) only, the terms below have the following definitions:

1. "Practice of acupuncture", as used in M.G.L. c. 112, §§ 152(d)(3) and 152(d)(4), does not refer to acupuncture treatment rendered by an applicant in the course of an apprenticeship or clinical training in an acupuncture school

2. "Legally practiced" and "legally practicing" acupuncture in Massachusetts, as used in M.G.L. c. 112, §§ 152(d)(3) and 152(d)(4), mean the practice of acupuncture in compliance with Board regulation 243 CMR 2.07(1).

3. "Legal practice" of acupuncture outside of Massachusetts means practice in accordance with the legal requirements of the jurisdiction where the applicant practiced.

4. "Primary activity" means either: an average of 500 patient visits per year, from January 1, 1983, until the date of application for licensure; an average of 500 hours per year spent in teaching, researching and writing published works on acupuncture, or supervising acupuncture interns, from January 1, 1983, until the date of application for licensure; or an equivalent combination of these activities, using the following

conversion: one patient visit is equivalent to one hour spent in teaching, researching and writing published works on acupuncture, or supervising acupuncture interns. Only research and writing which is not a part of an applicant's training in acupuncture will count towards fulfillment of this requirement.

(b) Compliance with 243 CMR 2.07(1), for the purposes of 243 CMR 5.10(5), means that:

1. The applicant had one or more fully licensed physicians who examined patients prior to acupuncture treatment, gave written authorization to the applicant to perform acupuncture treatment and were available for consultation with the applicant concerning the patients;
2. The supervising physician or applicant forwarded to the Board the applicant's name, address and a copy of the applicant's credentials;
3. The credentials are, in the judgment of the Committee, authentic and minimally adequate to protect the health and safety of the public. It is the judgment of the Committee that an applicant whose acupuncture training consisted of fewer than 500 hours over a time period of less than six months in duration does not have minimally adequate credentials.

(c) To qualify for licensure under M.G.L. c. 112, §152(d)(3), an applicant shall:

1. fulfill the requirements in M.G.L. c. 112, §§152(a), 152(b) and 152(c), and 243 CMR 5.02(3) and 5.02(4);
2. provide evidence satisfactory to the Committee--such as appointment calendars, employer and patient letters, and copies of written referrals--to show that the applicant was legally practicing acupuncture since January 1, 1983;
3. provide evidence satisfactory to the Committee--such as appointment calendars, employer and patient letters, and copies of written referrals--to show that the applicant has legally practiced acupuncture in Massachusetts for the 12 months immediately preceding the date of his application for licensure;
4. provide evidence satisfactory to the Committee--such as appointment calendars, employer and patient letters, and copies of written referrals--to show that acupuncture was the applicant's primary activity from January 1, 1983, until the date of application;
5. file a completed application form and application fees within 60 days from the date the Committee first accepts applications for licensure.

(d) To qualify for licensure under M.G.L. c. 112, §152(d)(4), an applicant must:

1. fulfill the requirements in M.G.L. c. 112, §§ 152(a), 152(b) and 152(c), and 243 CMR 5.02(3) and 5.02(4);
2. provide evidence satisfactory to the Committee--such as appointment calendars, employer and patient letters, and copies of written referrals--to show that the applicant has legally practiced acupuncture in Massachusetts since January 1, 1986;
3. file a completed application form and application fees within 60 days from the date the Committee first accepts applications for licensure;
4. pass the licensure examination.

(e) The Committee may, at its discretion, request an applicant to provide additional information, or appear before the Committee for an interview.

(6) Application Provisions for Applicants Applying under M.G.L. c. 112, §§ 152(d)(3) and 152(d)(4). An applicant applying for full licensure under M.G.L. c. 112, §§152(d)(3)

and 152(d)(4) shall, on the application form, provide the information required in 243 CMR 5.05(1). Additionally, the following is required:

(a) for applicants applying for full licensure under M.G.L. c. 112, § 152(d)(3), a detailed description of the applicant's acupuncture practice from January 1, 1983, until the application date, and evidence satisfactory to the Committee that substantiates this description.

(b) for applicant's applying for full licensure under M.G.L. c. 112, § 152(d)(4), a detailed description of the applicant's acupuncture practice from January 1, 1986, until the application date, and evidence satisfactory to the Committee that substantiates this description.

(7) Apprenticeship Training.

(a) The Committee shall accept through December 31, 1989, the applications of applicants for full licensure who have learned acupuncture through apprenticeship training, provided that the internship was in progress or had been completed as of the date 243 CMR 5.00 was promulgated. The Committee may, at its discretion and upon an affirmative vote of the majority of its members, extend this time period.

(b) The Committee shall only approve those applications where the applicant establishes to the satisfaction of the Committee that her training meets the requirements of 243 CMR 5.10(7) and 5.10(8). The Committee insists upon a high level of documentation to verify the sufficiency of the apprenticeship training, and will not approve an application on the basis of mere assertion by the applicant or tutor as to the sufficiency of the training. An applicant applying for licensure on the basis of apprenticeship training shall comply with all other applicable provisions in 243 CMR 5.00.

(c) Apprenticeship is defined as on-going work with a tutor or preceptor who assumes responsibility for the theoretical and practical education and training of the apprentice. An applicant applying for full licensure on the basis of apprenticeship training must provide documentation satisfactory to the Committee that:

1. She has spent a minimum of 1,000 hours per year for three years for a total of 3,000 hours under the direct supervision of the tutor;

2. She has received, during the total 3,000 hours of direct supervision, a minimum of 1,000 hours of didactic instruction in the areas listed in the CCAOM "Minimum Core Curriculum," as revised and accepted in June 1983;

3. She has received, during the total 3,000 hours of direct supervision, a minimum total of 1,000 hours of clinical practice, as defined in 243 CMR 5.04(2), of which a minimum of 500 hours were spent in the supervised practice of acupuncture on patients;

4. She has enrolled for one full academic year, as defined by the school, in a Committee approved acupuncture school, or has practiced acupuncture as her primary activity for a period of three or more years (the Committee may, at its discretion, set guidelines as to courses the applicant shall take while enrolled in the acupuncture school);

5. The tutor's credentials and practice conform to the requirements in 243 CMR 5.10(8).

(d) An applicant who has practiced acupuncture for six or more years is required to have had 2,000 hours of apprenticeship training, of which 1,000 hours shall be clinical and 1,000 hours shall be didactic.

(e) The Committee will not approve the applications of applicants whose apprenticeship training was conducted under the supervision of more than two tutors, unless the applicant was subsequently graduated from a school of acupuncture approved by the Committee.

(f) An applicant who applies for licensure on the basis of apprenticeship training is required to satisfy the undergraduate requirements in 243 CMR 5.03(1).

(8) Committee Approval of Apprenticeships.

(a) The Committee will not formally approve tutors or preceptors. The Committee will, however, accept applications from applicants who have studied with a tutor, provided that:

1. The tutor is legally practicing acupuncture in the jurisdiction in which the apprenticeship was conducted;

2. The tutor is licensed or otherwise approved to instruct students by some governmental entity in the jurisdiction in which the tutor practices acupuncture, provided that such licensure or approval is required in the jurisdiction;

3. The tutor has a minimum of ten years of experience practicing acupuncture;

4. The tutor's practice includes a minimum of 100 patients per year and 500 patient visits per year, and is a general health care practice. A general health care practice is one in which no more than 30% of the patients are receiving treatment for specialized problems such as smoking withdrawal, alcoholism, weight control and facelifts.

(b) The applicant is required to provide the Committee with full documentation, or have the tutor provide full documentation, to establish the sufficiency of the tutor's credentials and the course of study.

(9) Application Provisions for Applicants Applying on the Basis of Apprenticeship Training. An applicant applying for licensure on the basis of apprenticeship training shall, on the application form, provide the information required in 243 CMR 5.05(1). Additionally, the following is required:

(a) the name and address of the tutor;

(b) where applicable, a copy of the tutor's license or other governmental permission to practice acupuncture;

(c) where applicable, a copy of the tutor's permit to train apprentices;

(d) the tutor's affidavit containing description of the tutor's training and work experience, and proof to substantiate this description;

(e) the tutor's affidavit containing a description of the tutor's acupuncture practice, and proof to substantiate this description;

(f) the tutor's affidavit containing a description of the applicant's didactic instruction (including subjects studied, hours spent in each subject, and dates when subjects were taught), and proof to substantiate this description;

(g) the tutor's affidavit containing a description of the applicant's clinical training including dates when training occurred and the hours spent, and proof to substantiate this description.

(10) English Language Requirement.

(a) An applicant applying for licensure on the basis of M.G.L. c. 112, § 152(d)(3) shall be presumed by the Committee to be proficient in English.

(b) An applicant applying for licensure on the basis of M.G.L. c. 112, § 152(d)(4) must demonstrate proficiency in English or employ an interpreter in accordance with 243 CMR 5.02(4).

(11) Continuing Acupuncture Education. A licensed acupuncturist in Massachusetts who has not actually taken the CNT Course or an equivalent course shall, as a condition for first time relicensure, take the CNT Course in partial fulfillment of the continuing acupuncture education requirements.

(12) Application Deadline for the First Examination. Notwithstanding 243 CMR 5.02(7), the deadline for submitting a completed application form and application fees to take the first licensure examination is 60 days prior to the examination date.

(13) School Approval.

(a) The Committee may, at its discretion and upon majority vote of the Committee, reduce the number of hours of didactic and clinical instruction required by the Committee for acupuncture school approval, and may vary the requirements for approval of internship programs.

(b) The Committee may, in order to facilitate the review of applications prior to holding the first licensure examination, grant provisional approval to an acupuncture school if the Committee satisfies itself that the school meets the criteria listed in 243 CMR 5.04(1). Such provisional approval shall be valid until the deadline for applying for the first licensure examination, and shall not be in lieu of subsequent formal Committee approval under 243 CMR 5.04(1).

(14) Educational Requirements.

(a) The committee may, at its discretion and upon majority vote of the full Committee, reduce the number of didactic and clinical hours that an applicant for licensure is required to have completed in acupuncture school to be eligible for licensure, and may otherwise vary the acupuncture educational requirements, provided that the total number of didactic and clinical hours is not below 1,000 hours.

(b) An applicant lacking the biology requirement may apply to take the first licensure examination and be licensed provided that the applicant fulfills the biology requirement by December 31, 1988. The Committee may suspend from practice a licensee who does not fulfill the biology requirement by that date.

REGULATORY AUTHORITY 243 CMR 5.00: M.G.L. c. 112, §§ 148 through 162, 2 through 9B and 61 through 65