

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

ACUPUNCTURE – GENERAL RULES

Filed with the secretary of state on April 1, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16141, 16145, 16148, 16174, 16201, 16204, 16205, 16287, 16515, 16517, and 16525 of the public health code, 1978 PA 368, MCL 333.16141, 333.16145, 333.16148, 333.16174, 333.16201, 333.16204, 333.16205, 333.16287, 333.16515, 333.16517, and 333.16525 and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.13001, R 338.13002, R 338.13004, R 338.13005, R 338.13010, R 338.13025, and R 338.13026 of the Michigan Administrative Code are amended, R 338.13003, R 338.13006, R 338.13007, R 338.13008, and R 338.13028 are added, and R 338.13015, R 338.13020, and R 338.13030 are rescinded, as follows:

PART 1. GENERAL RULES

R 338.13001 Definitions.

Rule 1. (1) As used in these rules:

(a) "Board" means the Michigan board of acupuncture created under section 16521 of the public health code, MCL 333.16521.

(b) "Code" means the public health code 1978 PA 368, MCL 333.1101 to 333.25211.

(c) "Department" means the department of licensing and regulatory affairs.

(2) Terms defined in the code have the same meanings when used in these rules.

R 338.13002 Training standards for identifying victims of human trafficking; requirements.

Rule 2. (1) Pursuant to section 16148 of the code, MCL 333.16148, an individual seeking licensure or registration or who is licensed or registered shall complete training in identifying victims of human trafficking that meets the following standards:

(a) Training content must cover all of the following:

(i) Understanding the types and venues of human trafficking in the United States.

(ii) Identifying victims of human trafficking in health care settings.

(iii) Identifying the warning signs of human trafficking in health care settings for adults and minors.

- (iv) Resources for reporting the suspected victims of human trafficking.
- (b) Acceptable providers or methods of training include any of the following:
 - (i) Training offered by a nationally-recognized or state-recognized health-related organization.
 - (ii) Training offered by, or in conjunction with, a state or federal agency.
 - (iii) Training obtained in an educational program that has been approved by the board for initial licensure or registration, or by a college or university.
 - (iv) Reading an article related to the identification of victims of human trafficking that meets the requirements of subdivision (a) of this subrule and is published in a peer review journal, health care journal, or professional or scientific journal.
- (c) Acceptable modalities of training may include any of the following:
 - (i) Teleconference or webinar.
 - (ii) Online presentation.
 - (iii) Live presentation.
 - (iv) Printed or electronic media.
- (2) The department may select and audit a sample of individuals and request documentation of proof of completion of training. If audited by the department, an individual shall provide an acceptable proof of completion of training, including either of the following:
 - (a) Proof of completion certificate issued by the training provider that includes the date, provider name, name of training, and individual's name.
 - (b) A self-certification statement by an individual. The certification statement must include the individual's name and either of the following:
 - (i) For training completed pursuant to subrule (1)(b)(i) to (iii) of this rule, the date, training provider name, and name of training.
 - (ii) For training completed pursuant to subrule (1)(b)(iv) of this rule, the title of article, author, publication name of peer review journal, health care journal, or professional or scientific journal, and date, volume, and issue of publication, as applicable.
- (3) Pursuant to section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply to an applicant for license renewal beginning July 2, 2018 and to an applicant for initial licensure beginning April 22, 2021.

R 338.13003 Telehealth.

- Rule 3. (1) An acupuncturist shall obtain consent before providing a telehealth service pursuant to section 16284 of the code, MCL 333.16284.
- (2) An acupuncturist providing a telehealth service shall do both of the following:
- (a) Act within the scope of his or her practice.
 - (b) Exercise the same standard of care applicable to a traditional, in-person health care service.

R 338.13004 Adoption of standards.

Rule 4. The National Certification Commission for Acupuncture and Oriental Medicine's (NCCAOM) national standards of competence in acupuncture and Oriental medicine as set forth in the document titled, "NCCAOM Certification Handbook," effective January 1, 2019, is approved by the board and adopted by reference in these

rules. The document is available for inspection and distribution at the cost of 10 cents per page from the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing at 611 W. Ottawa St. P.O. Box 30670, Lansing, Michigan 48909 and at no cost from NCCAOM at www.nccaom.org or National Certification Commission for Acupuncture and Oriental Medicine, 2025 M. Street NW, Suite 800, Washington, DC 20036.

PART 2. LICENSURE

R 338.13005 Licensure of Michigan-registered acupuncturist; requirements.

Rule 5. Beginning on the date of promulgation of these rules, and for a period of 36 months following promulgation of these rules, the department shall issue a license to an applicant who, in addition to meeting all the requirements of the code, satisfies both of the following:

- (a) Submits a completed application on a form provided by the department, together with the requisite fee.
- (b) Is currently registered as an acupuncturist in this state.

R 338.13006 Licensure of non-NCCAOM certified acupuncturist; requirements.

Rule 6. (1) Beginning on the date of promulgation of these rules, and for a period of 36 months following promulgation of these rules, the department shall issue a license to an applicant who, in addition to meeting all the requirements of the code, submits a completed application on a form provided by the department, together with the requisite fee.

(2) The applicant shall demonstrate to the board that he or she has the education, training, and experience required for licensure pursuant to sections 16515 and 16525 of the code, MCL 333.16515 and 333.16525. The applicant shall satisfy all of the following:

- (a) The applicant shall establish that he or she has completed a minimum of 1,245 hours of systematic acupuncture education, as that term is defined in section 16501(1)(v) of the code, MCL 333.16501, by submitting his or her education records, training records, or other verifiable evidence of the applicant's education and training that included live lectures, demonstrations, and supervised clinical training specific to acupuncture.
- (b) The applicant shall establish that he or she is certified in clean needle technique by the Council of Colleges of Acupuncture and Oriental Medicine.
- (c) The applicant shall establish that he or she has provided acupuncture services to an average of 50 or more patients per year during the 4 years preceding the date of application for licensure by submitting his or her patient records, billing records, or both. The applicant shall ensure that patient confidentiality is protected on every document submitted.

(3) If documentation submitted pursuant to this rule is in a language other than English, an original, official translation must also be submitted.

R 338.13007 Licensure of NCCAOM-certified applicant; requirements.

Rule 7. Beginning on the date of promulgation of these rules, the department shall issue a license to an applicant who, in addition to meeting all the requirements of the code, satisfies both of the following:

- (a) Submits a completed application on a form provided by the department, together with the requisite fee.
- (b) Submits proof acceptable to the department that he or she is currently certified by NCCAOM as a Diplomat of Acupuncture or Diplomat of Oriental Medicine.

R 338.13008 Limited License; requirements; restrictions.

Rule 8. (1) Beginning on the date of promulgation of these rules, and for a period of 36 months following the promulgation of these rules, the department shall issue a limited license to an applicant who, in addition to meeting the requirements of the code, meets all of the following:

- (a) The applicant provides documentation that he or she has been performing acupuncture under the supervision of a physician licensed under part 170 of the code, MCL 333.17001 to 333.17097, or part 175 of the code, MCL 333.17501 to 333.17556, for a minimum of 2 years before March 4, 2020.
- (b) The applicant submits a form provided by the department that contains the name and signature of the supervising physician acknowledging assumption of the supervisory responsibilities under section 16109(2) of the code, MCL 333.16109.
- (c) The applicant holds a license to engage in another health profession as defined in section 16105(2) of the code, MCL 333.16105, at the time of his or her application.

(2) A limited licensee shall comply with all of the following:

- (a) Engage in the practice of acupuncture only under the supervision of the physician identified pursuant to subrule (1)(b) of this rule.
- (b) Notify the department if the physician identified pursuant to subrule (1)(b) of this rule is no longer willing or able to supervise the limited licensee.
- (i) If the supervising physician is no longer willing or able to supervise the limited licensee, the limited licensee shall not provide acupuncture services until a new supervising physician licensed under part 170 or part 175 of the code is secured and the requirements of subrule (1)(b) of this rule have been met by the new supervising physician and the form, provided by the department, that contains the name and signature of the supervising physician acknowledging assumption of the supervisory responsibilities under section 16109(2) of the code, MCL 333.16109, has been submitted to the department.
- (ii) A limited license cannot be renewed if a supervising physician licensed under part 170 or part 175 of the code is not identified.
- (c) A limited licensee shall not collect payment from an insurer for performing a service that is within the practice of acupuncture.

R 338.13010 Licensure by endorsement; requirements.

Rule 10. (1) An applicant for an acupuncturist license by endorsement, in addition to meeting all the requirements of the code, shall submit a completed application on a form provided by the department, together with the requisite fee and satisfy both of the following:

(a) Demonstrate to the satisfaction of the department that he or she holds an active license or registration in good standing from another state on the date of filing an application for licensure by endorsement.

(b) Submit proof acceptable to the department that he or she is currently certified by NCCAOM as a Diplomat of Acupuncture or Diplomat of Oriental Medicine.

(2) An applicant's license or registration in good standing shall be verified by the licensing or registering agency of each state in which the applicant holds or ever held a license or registration as an acupuncturist. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.

R 338.13015 Rescinded.

R 338.13020 Rescinded.

R 338.13025 Application for relicensure; requirements.

Rule 25. An applicant whose license has lapsed may be relicensed upon submission of the appropriate documentation as noted in the table below:

(1) For an acupuncturist who has let his or her Michigan license lapse and is currently licensed in another state or Canada.		Lapsed 0-3 years	Lapsed more than 3 years
(a)	Submits a completed application on a form provided by the department, together with the required fee.	√	√
(b)	Establishes that he or she is of good moral character as defined under sections 1 to 7 of 1974 PA 381, MCL 338.41 to 338.47.	√	√
(c)	Submits fingerprints as required under section 16174(3) of the code, MCL 333.16174(3).		√
(d)	Submits proof of having completed 30 hours of continuing education in compliance with R 338.13026 and R 338.13028 within the 2-year period immediately preceding the application for relicensure.	√	√
(e)	An applicant's license or registration in good standing must be verified by the licensing or registering agency of each state in which the applicant holds or ever held a license or registration as an acupuncturist. If applicable, verification must include the record of any disciplinary action	√	√

	taken or pending against the applicant.		
(2)	For an acupuncturist who has let his or her Michigan license lapse and is not currently licensed in another state or Canada.	Lapsed 0-3 years	Lapsed more than 3 years
(a)	Submits a completed application on a form provided by the department, together with the required fee.	√	√
(b)	Establishes that he or she is of good moral character as defined under sections 1 to 7 of 1974 PA 381, MCL 338.41 to 338.47.	√	√
(c)	Submits fingerprints as required under section 16174(3) of the code, MCL 333.16174(3).		√
(d)	Submits proof of having completed 30 hours of continuing education in compliance with R 338.13026 and R 338.13028 within the 2-year period immediately preceding the application for relicensure.	√	√
(e)	Possesses a current and valid NCCAOM certification as a Diplomate of Acupuncture or Diplomate of Oriental Medicine.		√
(f)	An applicant's license or registration in good standing must be verified by the licensing or registering agency of each state in which the applicant holds or ever held a license or registration as an acupuncturist. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.	√	√

PART 3. LICENSE RENEWAL, LIMITED LICENSE RENEWAL, AND CONTINUING EDUCATION

R 338.13026 Renewal of acupuncturist license; renewal of limited license; requirements; limitations; waiver request.

Rule 26. (1) Pursuant to section 16517 of the code, MCL 333.16517, an applicant for renewal of a license or limited license, who has been licensed for the 2-year period immediately preceding the expiration date of the license, shall accumulate 30 hours of

continuing education related to the practice of acupuncture and approved by the board, pursuant to these rules, during the 2 years before the expiration date of the license.

(2) An applicant for renewal of a license or a limited license shall accumulate at least 5 hours of the required hours of continuing education in pain and symptom management related to the practice of acupuncture during each license cycle pursuant to sections 16204(2) and 16517(2) of the code, MCL 333.16204 and 333.16517.

(3) An applicant for renewal of a limited license, in addition to meeting the requirements of subrules (1) and (2) of this rule, shall meet all of the following:

(a) Pursuant to section 16517(3) of the code, MCL 333.16517, the applicant shall hold an active license to engage in another health profession, as defined in section 16105 of the code, MCL 333.16105, at the time of his or her application, and as a condition of renewal of his or her limited license.

(b) The applicant shall accumulate the continuing education credits required in subrules (1) and (2) of this rule in addition to any continuing education credits accumulated for the purpose of renewing his or her other health professional license.

(c) The applicant shall submit a form, provided by the department, that contains the name and signature of his or her supervising physician acknowledging that the physician provided the supervisory responsibilities required under section 16109(2) of the code, MCL 333.16109, during the previous license cycle and agreeing to provide those supervisory responsibilities during the next license cycle.

(4) Submission of an application for renewal constitutes the applicant's certification of compliance with this rule. An applicant shall retain documentation of satisfying the requirements of this rule for a period of 4 years from the date of applying for license renewal. The board may require an applicant to submit evidence to demonstrate compliance with this rule. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221.

(5) The department must receive a request for a waiver under section 16205 of the code, MCL 333.16205, before the expiration date of the license.

(6) The continuing education credits earned in 1 license cycle may not be carried forward to the next license cycle.

(7) The applicant may not earn continuing education credits for completing the same activity twice within the same license cycle.

R 338.13028 Acceptable continuing education, requirements.

Rule 28. (1) The board approves for continuing education a course or activity approved by the NCCAOM as a professional development activity (PDA). One PDA credit equals 1 hour of continuing education credit that can be accumulated to satisfy the requirements of R 338.13026.

(2) Pursuant to section 16517(1) of the code, MCL 333.16517, an individual who has met the continuing education standards of the NCCAOM is considered to have met the continuing education requirements for license renewal.

(3) If an applicant does not meet the requirements of subrule (2) of this rule, he or she shall accumulate not less than 30 continuing education credits by participating in a course or activity approved by the NCCAOM.

R 338.13030 Rescinded.