

NOTICE OF INTENT
Department of Health and Hospitals
Board of Medical Examiners

Acupuncturists and Acupuncture
Detoxification Specialists; General, Licensure
and Certification and Practice; (LAC 46:XLV,
Chapters 1, 21 and 51)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 *et. seq.*, and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, and the Louisiana Acupuncture Practice Act, R.S. 37:1360, the Board proposes to amend its rules governing the practice of acupuncture to make them consistent with Act 550 of the 2016 Regular Session of the Louisiana Legislature. The amendments also update the rules generally and conform them to current practices. Among other items, the proposed amendments: delete, revise and add new definitions (2103); convert and change the former title of licensees from a "acupuncturist's assistant" to a "licensed acupuncturist" and a "acupuncturist" to a "physician acupuncturist" wherever the terms appear in the rules; update the educational requirements for licensure eligibility (2111-2117); as prescribed by Act 550, delete the requirements for physician supervision of a licensed acupuncturist and define and provide instead for a relationship with a physician who operates a physical practice location in Louisiana to provide for referrals and follow-up care which may be necessary (2103, 5106); clarify the date for annual certificate/license renewal (2129); delete and replace outdated procedures for emergency temporary permits with those applicable to all individuals regulated by the Board (2131); and establish an acupuncture advisory committee to the Board consistent with the law (2139-2141). The amendments also update and stream line existing provisions relative to clinical practice guidelines or protocols (5106); the authority, limitations, obligations and responsibilities of licensees (5107, 5111); and repeal provisions that are no longer applicable (5109). Similar to other categories of allied health care professionals regulated by the Board, the changes include a \$50 late fee for failure to timely renew a license or certificate (187).

TITLE 46

**PROFESSIONAL AND
OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

**Subchapter H. Acupuncturists
and Acupuncture
Detoxification Specialists Fees**

§183. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of physician acupuncturists, licensed acupuncturists and acupuncture detoxification specialists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1615 (August 2008), LR

§185. Certification and Licensure

A. For processing an application for certification as a physician acupuncturist or as a licensed acupuncturist, a fee of \$200 shall be payable to the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004), LR 34:1615 (August 2008), LR

§187. Annual Renewal

A. For processing an application for annual renewal of certification of a physician acupuncturist or a licensed acupuncturist, a fee of \$100 shall be payable to the board.

B. ...

C. In addition to the fee prescribed by §187.A, any individual who fails to renew his or

her certificate or license timely shall be charged a delinquent fee of \$50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004), LR 34:1615 (August 2004), LR

TITLE 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 21. Acupuncturists and Acupuncture Detoxification Specialists

Subchapter A. General Provisions

§2101. Scope of Chapter

A. The rules of this Chapter govern the certification of physician acupuncturists and licensed acupuncturists to practice acupuncture and of acupuncture detoxification specialists to practice acupuncture detoxification in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:1615 (August 2008 LR

§2103. Definitions

A. As used in this Chapter and Chapter 51, the following terms shall have the meanings specified.

Acupuncture Detoxification Specialist (ADS)—an individual who possesses current certification, duly issued by the board, to practice acupuncture detoxification under the supervision of a physician or licensed acupuncturist.

Applicant—a person who has applied to the board for certification as a physician acupuncturist, licensed acupuncturist or acupuncture detoxification specialist in the state of Louisiana.

Clinical Practice Guidelines or Protocols (guidelines or protocols)—a written set of guidelines for use by a licensed acupuncturist in the performance of patient care activities containing each of the components specified by §5106.A of these rules. Clinical practice guidelines or protocols shall be annually reviewed, updated as appropriate, and signed by the referral physician and licensed acupuncturist. The signature of the physician and LAc and date of review shall be noted on the guidelines or protocols. Guidelines or protocols shall be maintained at both the primary practice site of the referral physician and the LAc, and shall be made available for review and inspection upon request by a representative of the board.

Good Moral Character—as applied to an applicant, means that:

a. ...

b. the applicant has not, prior to or during the pendency of an application to the board, been culpable of any act, omission, condition, or circumstance which would provide cause under §5113 of these rules for the suspension or revocation of certification as a physician acupuncturist, licensed acupuncturist, or acupuncture detoxification specialist;

c.-d. ...

Licensed Acupuncturist (LAc)—an individual, other than a physician possessing a current license, duly issued by the board to practice acupuncture in this state.

Physical Practice Location—a location in this state at which a physician engages in the practice of medicine.

Physician Acupuncturist—a physician possessing current certification, duly issued by the board, to practice acupuncture.

Primary Practice Site—the location at which a physician, licensed acupuncturist or acupuncture detoxification specialist spends the majority of time in the exercise of the privileges

conferred by licensure or certification issued by the board.

Proposed Supervising Licensed Acupuncturist—a licensed acupuncturist who has submitted to the board an application for approval as a supervising acupuncturist.

Referral Physician—a physician who practices medicine at a physical practice location in this state, with whom a licensed acupuncturist has established a relationship to provide for referrals and any follow-up care which may be necessary,

Supervising Licensed Acupuncturist—a licensed acupuncturist registered with the board under this Chapter to provide supervision to an acupuncture detoxification specialist.

Supervising Physician—a physician registered with the board under this Chapter to supervise an acupuncture detoxification specialist.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:1615 (August 2008), LR

Subchapter B. Physician Acupuncturist Certification

§2105. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to certification as a physician acupuncturist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1616 (August 2008) LR

§2107. Qualifications for Certification as Physician Acupuncturist

A. To be eligible for certification as a physician acupuncturist, an applicant shall:

1.-2. ...

3. have successfully completed:

a. not less than six months of training in acupuncture in a school or clinic approved by the board pursuant to §§2118-2121 of this Chapter; or

3.b.-B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1616 (August 2008), LR

§2109. Application Procedure for Physician Acupuncturist

A. Application for certification as a physician acupuncturist shall be made in a format approved by the board.

B.-E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1617 (August 2008), LR

Subchapter C. Licensed Acupuncturist and Acupuncture Detoxification Specialist Certification; Qualifications for Referral and Supervising Physicians and Licensed Acupuncturists

§2111. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to licensure as a licensed acupuncturist, certification as an acupuncture detoxification specialist, and those of a referral or supervising physician and licensed acupuncturist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1617 (August 2008), LR

§2113. Qualifications for Licensure as a Licensed Acupuncturist

A. To be eligible for a license as a licensed acupuncturist, an applicant:

1.-3. ...

4. shall be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the United States Citizenship and Immigration Services (USCIS) of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

5. shall have either:

a. graduated from an acupuncture school or college accredited by the Accreditation Commission on Acupuncture and Oriental Medicine; or

b. passed the certification examination given by the National Certification Commission for Acupuncture and Oriental Medicine or its successor; and

6. shall affirm that he or she shall establish and maintain a relationship with a physician, as defined in §5106.A of these rules, at all times while engaged in the practice of acupuncture.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant shall be upon the applicant, who shall demonstrate and evidence such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34 1617 (August 2008), LR

§2114. Qualifications for Certification as an Acupuncture Detoxification Specialist; Qualifications for Registration of Supervising Physician or Supervising Licensed Acupuncturist

A. To be eligible for certification as an acupuncture detoxification specialist, an applicant:

1.-3. ...

4. shall be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the United States Citizenship and Immigration Services (USCIS) of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act

(66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

5. shall have:

a.-b. ...

6. shall affirm that he or she shall only provide acu detox under the general supervision of a physician or a licensed acupuncturist, as defined in §5106.B of these rules.

B.-B.2. ...

C. Prior to undertaking the supervision of an acupuncture detoxification specialist a licensed acupuncturist shall be registered with the board. To be eligible for registration to supervise an ADS a proposed supervising LAc shall, as of the date of the application:

1. possess a current, unrestricted license to practice as a LAc ; and

2. have held certification or licensure by the board to practice as a LAc in this state for at least two years immediately preceding the date of application.

D. The burden of satisfying the board as to the qualifications and eligibility of the applicant acupuncture detoxification specialist, proposed supervising physician or proposed supervising licensed acupuncturist shall be upon the applicant, proposed supervising physician or proposed supervising licensed acupuncturist, who shall demonstrate and evidence such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1618 (August 2008), amended, LR

§2115. Application Procedure for Licensed Acupuncturist

A. Application for certification as a licensed acupuncturist shall be made in a format approved by the board.

B. An application under this Subchapter shall include:

1. ...

2. the name, primary practice site and contact information of a referral physician;

3. attestation by the applicant certifying that clinical practice guidelines or protocols conforming to the requirements of §5106.A of

these rules have been prepared, dated, signed and shall be utilized by the licensed acupuncturist in the exercise of the privileges conferred by licensure under this Part and produced upon request by a representative of the board;

4. attestation by the applicant certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and

5. such other information and documentation as the board may require.

C.-E. . . .

F. Upon submission of a completed application, together with the documents required thereby, and the payment of the application fee, the applicant shall be required to appear before the board or its designee if the board has questions concerning the applicant's qualifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1618 (August 2008), LR

§2116. Application Procedure for Acupuncture Detoxification Specialist

A. Application for certification as an ADS shall be made in a format approved by the board and shall include notification of intent to practice in a format approved by the board, signed by a proposed supervising physician or proposed supervising licensed acupuncturist who is registered with or has applied for registration to the board as a supervising physician or supervising licensed acupuncturist.

B. Application for certification and approval under this Subchapter shall include:

1. . . .

2. attestation by the applicant certifying that the requirements of §5106.B of these rules shall be followed in the exercise of the privileges conferred by certification under this Part;

3. attestation by the applicant certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and

4. such other information and documentation as the board may require.

C.-E. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1619 (August 2008), LR

§2117. Application Procedure for Registration of Supervising Physician or Supervising Licensed Acupuncturist

A. Application for registration of a supervising physician or supervising LAc for an acupuncture detoxification specialist, shall be made in a format approved by the board, include proof satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter, and contain such other information and documentation as the board may require.

B. . . .

C. A separate fee shall not be assessed for registration or approval of a supervising physician or supervising LAc for an ADS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1619 (August 2008), LR

Subchapter D. Board Approval of Acupuncture Schools and Colleges

§2118. Scope of Subchapter

A. The rules of this Subchapter provide the method and procedures by which acupuncture schools and colleges are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008), LR

§2119. Applicability of Approval

A. As provided in this Chapter the successful completion of formal training in acupuncture from a school or college approved by the board is among the alternative qualifications requisite to certification as a physician acupuncturist or licensed acupuncturist. This qualification will be deemed to be satisfied if the school or college in which the applicant received training in acupuncture was approved by the board as of the date on which the applicant completed such training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008), LR

§2121. Approval of Acupuncture Schools or Colleges

A. A school or college providing training in acupuncture which is currently accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), or its predecessor, the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM), shall concurrently be deemed approved by the board.

B. A school or college providing training in acupuncture which has been accorded candidacy status by ACAOM, or its predecessor, NACSCAOM, shall concurrently be deemed conditionally approved by the board, provided that board approval shall be automatically withdrawn if accreditation is not awarded by ACAOM within three years of the date on which candidacy status was recognized.

C. The board may approve additional schools or programs providing training in acupuncture upon the request of an applicant or application by any such school or program and upon the submission to the board of documentation that such school or program provides training in acupuncture under standards substantially equivalent to those prescribed by ACAOM for accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008), LR

**Subchapter E. Certification,
License Issuance, Approval of
Registration of Supervising
Physician or Supervising
Licensed Acupuncturist,
Termination, Renewal,
Reinstatement**

**§2125. Issuance of Certification and
Licensure, Approval of Registration**

A. If the qualifications, requirements, and procedures specified by this Chapter for a physician acupuncturist are met to the satisfaction of the board, the board shall certify the applicant as a physician acupuncturist.

B. If the qualifications, requirements, and procedures specified by this Chapter for a licensed acupuncturist are met to the satisfaction of the board, the board shall certify the applicant as a licensed acupuncturist.

C. If the qualifications, requirements, and procedures specified by this Chapter for an acupuncture detoxification specialist are met to the satisfaction of the board, the board shall certify the applicant as an ADS. Issuance of certification to an applicant under this Chapter shall constitute approval of registration of the proposed supervising physician or proposed supervising licensed acupuncturist.

D. Although a physician or licensed acupuncturist must notify the board each time he or she intends to undertake the general supervision of an acupuncture detoxification specialist, registration with the board is only required once. Notification of supervision of a new or additional ADSs by a registered supervising physician or LAc shall be deemed given to the board upon the ADS's filing with the board of a notice of intent to practice in accordance with §2127.F of this Chapter.

E. The board shall maintain a list of physicians and LAcS who are registered to supervise an ADS. Each registered physician, registered LAc and ADS is responsible for updating the board within fifteen days should any of the information required and submitted change after a physician or LAc has been registered to supervise an ADS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1620 (August 2008), LR

§2127. Expiration and Termination of Certification and Licensure; Modification; Notice of Intent

A. Every certification and license issued by the board under this Chapter shall expire, and become null, void, and to no effect on the last day of the year in which it was issued.

B. The timely submission of an application for renewal of certification or licensure, as provided by §2129 of this Chapter, shall operate to continue the expiring certification or license in full force and effect pending issuance or denial of renewal.

C. Except as provided in Subsection D of this Section, licensure as a licensed acupuncturist whether an initial license or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that:

1. the referral physician no longer possesses a current, unrestricted license to practice medicine in the state of Louisiana;

2. the referral physician, whether voluntarily or involuntarily, ceases the active practice of medicine;

3. the relationship between the licensed acupuncturist and the referral physician is terminated; or

4. the licensed acupuncturist's license expires for failure to timely renew.

D. Licensure shall not terminate upon termination of a relationship between a physician and licensed acupuncturist provided that:

1. the licensed acupuncturist currently has a referral relationship with another physician; alternatively, the LAc ceases to practice until such time as notification is provided to the board, in a format approved by the board, that he or she has entered into a relationship with another referral physician who satisfies the qualifications, requirements and procedures of this Chapter. Such notification shall be deemed effective as of the date received by the board, subject to final approval at the next board meeting; and

2. the licensed acupuncturist notifies the board of any changes in or additions to his referral physicians within 15 days of the date of such change or addition.

E. Except as provided in Subsection F of this Section, certification as an acupuncture detoxification specialist, whether an initial certificate or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that:

1. the supervising physician or supervising licensed acupuncturist no longer possesses a current, unrestricted license to practice as a physician or as a LAc in the state of Louisiana;

2. the supervising physician or supervising acupuncturist, whether voluntarily or involuntarily, ceases the active practice of medicine or practice as a LAc;

3. the relationship between the ADS and the supervising physician or the supervising LAc is terminated; or

4. ...

F. Certification shall not terminate upon termination of a relationship between a supervising physician or supervising LAc and ADS provided that:

1. the ADS currently has a supervisory relationship with another supervising physician or supervising LAc; alternatively, the ADS ceases to practice until such time as notification is provided to the board, in a format approved by the board, that he or she has entered into a supervisory relationship with a new supervising physician or supervising LAc who satisfies the qualifications, requirements and procedures of this Chapter. Such notification shall be deemed effective as of the date received by the board, subject to final approval at the next board meeting; and

2. the ADS notifies the board of any changes in or additions to his supervising physicians or supervising LAc's within 15 days of the date of such change or addition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1621 (August 2008), LR

§2129. Renewal of Certification and Licensure; Verification of Registration

A. Every certificate or license issued by the board under this Chapter shall be renewed annually on or before the last day of the year in which it was issued by submitting to the board a

properly completed application for renewal, in a format specified by the board, together with the renewal fee prescribed in Chapter 1 of these rules.

B. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. Each registered supervising physician and supervising licensed acupuncturist shall annually verify the accuracy of registration information on file with the board in a format approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1621 (August 2008), LR

Subchapter F. Restricted Licensure, Permits

§2131. Emergency Temporary Permit

A. Acupuncture Detoxification Specialist. The board may issue an emergency temporary permit to an acupuncture detoxification specialist, valid for a period of not more than 60 days, to provide voluntary, gratuitous acu detox services in this state during a public health emergency and for such periods thereafter as the Louisiana Department of Health and Hospitals ("DHH") shall deem the need for emergency services to continue to exist, at sites specified by DHH or approved by the board. Application for such permit shall be made in accordance with §412 of this Part and include notification of intent to practice under a supervising physician or supervising LAc in a manner approved by the board.

B. Services performed by an ADS issued a permit under this Section shall be limited to acu detox, approved by and performed under the general supervision of the supervising physician or supervising LAc. All services shall be documented by the ADS and available for review by the supervising physician or supervising LAc.

C. Licensed Acupuncturist. The board may issue an emergency temporary permit to a licensed acupuncturist to provide voluntary, gratuitous acupuncture services in this state during a public health emergency, and for such periods thereafter as DHH shall deem the need for emergency services to continue to exist, in accordance with §412 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1275 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 32:2057 (November 2006), amended LR 34:1621 (August 2008), LR

Subchapter G. Acupuncture Advisory Committee

§2139. Scope of Subchapter

A. To assist the board on matters relative to acupuncture, an Acupuncture Advisory Committee is hereby constituted, to be composed and appointed and to have such duties and responsibilities as hereinafter provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360, 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR .

§2141. Constitution, Function and Responsibilities of Advisory Committee

A. The board shall constitute and appoint an Acupuncture Advisory Committee which shall be organized and function in accordance with the provisions of this Subchapter.

B. Composition. The committee shall be comprised of five members selected by the board, four of whom shall be licensed acupuncturists and one of whom shall be a physician acupuncturist or referral physician. All members of the advisory committee will be licensed by the board and practice and reside in this state.

C. Insofar as possible or practical, in its appointment of members to the advisory committee the board shall maintain geographic diversity so as to provide representative membership on the advisory committee by individuals residing in various areas of the state.

D. Term of Service. Each member of the committee shall serve for a term of four years, or until a successor is appointed and shall be eligible for reappointment. Committee members serve at the pleasure of the board. Committee members may be reappointed to two additional terms of four years.

E. Functions of the Committee. The Committee will provide the Board with recommendations relating to:

1. applications for licensure;

2. educational requirements for licensure;
3. changes in related statutes and rules;
4. model forms and examples of clinical practice guidelines and protocols; and
5. perform such other functions and provide such additional advice and recommendations as may be requested by the board.

F. **Committee Meetings.** The committee shall meet at least once each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or by the board. Three members of the committee constitute a quorum. The committee shall elect from among its members a chair. The chair shall call, designate the date, time, and place of, and preside at all meetings of the committee. The chair shall record or cause to be recorded accurate and complete written minutes of all meetings of the committee and shall cause copies of the same to be provided to the board.

G. **Confidentiality.** In discharging the functions authorized under this Section, the committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. Committee members are prohibited from communicating, disclosing, or in any way releasing to anyone other than the board, any confidential information or documents obtained when acting as the agents of the board without first obtaining the written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360, 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR

TITLE 46
PROFESSIONAL AND
OCCUPATIONAL
STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 51. Physician
Acupuncturists, Licensed
Acupuncturists and
Acupuncture Detoxification
Specialist

§5101. Scope of Chapter

A. The rules of this Chapter govern the practice of acupuncture by physician acupuncturists, licensed acupuncturist and of acupuncture detoxification by acupuncture detoxification specialists in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1622 (August 2008) LR

§5105. Necessity of Certification or Licensure; Exemptions

A. No person may act as or undertake to perform or practice acupuncture or acupuncture detoxification unless he or she holds a current license, certificate or permit issued by the board. While any physician may practice acupuncture, enter into a relationship with a licensed acupuncturist to respond to referrals for follow up care, and may apply to the board for registration to supervise an ADS, only a physician certified by the board under this Part may hold himself or herself out as a physician acupuncturist.

B. None of the provisions of this Chapter shall apply to any person employed by, and acting under the supervision and direction of, any commissioned physician of any of the United States Armed Services, Public Health Service or Veterans' Administration, practicing in the discharge of his or her official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1622 (August 2008), LR

§5106. Referral Physician; Clinical Practice Guidelines or Protocols

A. Licensed Acupuncturist. A licensed acupuncturist shall establish and maintain a relationship with a physician who operates a physical practice location in Louisiana to provide referrals and follow-up care which may be necessary. Such a relationship shall, at a minimum, provide:

1. that the referral physician and LAc have the capability to be in contact with each other by telephone or other telecommunications device on a regular basis; and

2. clinical practice guidelines or protocols mutually agreed to by the physician and LAc that shall, at a minimum, include:

a. the LAc's documentation requirements for each visit which shall, at a minimum, include:

i. the symptoms reported by the patient in his or her words (may be recorded by the patient);

ii. a treatment plan;

iii. informed consent for the services signed by the patient;

b. a list of conditions and events upon which the LAc is required to notify the referral physician; provided, however, that should the LAc have need to contact the physician for any reason regarding the care of a particular patient, and the physician is not immediately available, then the service shall not be provided until the physician has been contacted;

c. a predetermined plan to address medical emergencies *e.g.*, calling 911, referral to a hospital emergency room or a primary care provider, if needed;

d. the requirements for referring to the physician;

e. an acknowledgment that the physician and LAc to comply with all requirements of §5111 of this Chapter; and

f. in the event that the LAc serves or intends to serve as a LAc for an ADS such guidelines or protocols shall include any

additional instructions or procedures that are to be followed.

B. Acupuncture Detoxification Specialist. General supervision of an ADS shall not be construed to require the physical presence of a supervising physician or supervising licensed acupuncturist. General supervision shall exist when the services of an ADS:

1. are provided when the supervising physician or supervising LAc and the ADS shall have the capability to be in contact with each other by either telephone or other telecommunications device on a regular basis to address any questions or concerns that may arise from the provision of acu detox; provided, however, that should the ADS have need to contact the supervising physician or supervising LAc for any reason regarding the administration of acu detox to a particular individual, and the supervising physician or supervising LAc is not immediately available, then the acu detox service shall not be provided until the supervising physician or supervising LAc has been contacted;

2. ...

3. are documented in written form by an ADS and made available for review by the supervising physician or supervising LAc. Such documentation shall, at a minimum, include:

a. ...

b. written authority signed by the patient authorizing the supervising physician or supervising LAc to review the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1622 (August 2008), amended, LR

§5107. Authority and Limitations of Licensed Acupuncturist and Acupuncture Detoxification Specialist

A. A licensed acupuncturist shall not:

1. practice without a relationship with a physician, as defined or provided in this Chapter;

2. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function required by law to be performed or provided by one possessing a certificate, registration or

license other than as a LAc, in the absence of such certificate, registration or license; or

3. identify himself, or permit any other person to identify him, as "Doctor" unless he designates the degree entitling such use or render any service to a patient unless the LAc has clearly identified himself as a LAc by any method reasonably calculated to advise the patient that the licensed acupuncturist is not a licensed *physician*.

B. An acupuncture detoxification specialist shall not:

1. practice without general supervision, as defined or provided in this Chapter;

2. perform or provide acu detox other than at the addresses, locations or types of locations identified in his or her current application;

3. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function other than acu detox as defined in this Part. The types of services that an ADS shall not provide include, but are not limited to, counseling, nutritional assessments, biofeedback or any other acupuncture, medical or psychological service; or

4. identify himself or herself, or permit any other person to identify him or her, as "Doctor" or as "licensed acupuncturist" or render any service to a patient unless the acupuncture detoxification specialist has clearly identified himself as an acupuncture detoxification specialist by any method reasonably calculated to advise the patient that he or she is not a physician or LAc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1623 (August 2008), LR

§5109. [Repealed]

Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1624 (August 2008), Repealed, LR

§5111. Obligations and Responsibilities

A. A LAc shall:

1. report directly to the board, in writing, of:

a. the termination of the licensed acupuncturist's relationship with a referral physician; and

b. the retirement or withdrawal from active practice by the referral physician or LAc;

2. comply with reasonable requests by the board for personal appearances, information and documentation required by this Part relative to the functions, activities, and performance of the licensed acupuncturist' and/or referral physician. This obligation shall apply equally to a referral physician;

3. insure that each individual to whom the LAc provides patient services is expressly advised and understands that the LAc is not a physician; and

4. insure that, with respect to each patient, all activities, functions, services, and treatment measures of the LAc are immediately and properly documented in written form.

B. The licensed acupuncturist and the referral physician shall bear equal and reciprocal obligations to insure strict compliance with their respective obligations and responsibilities set forth in the rules of this Part.

C. The ADS, supervising physician or supervising LAc shall:

1. immediately notify the board, in writing, of:

a. the retirement or withdrawal from active practice by the supervising physician or supervising LAc; and

b. ...

2. comply with reasonable requests by the board for personal appearances and/or information and documentation required by this Part relative to the functions, activities, and performance of the ADS and supervising physician or supervising LAc;

3. insure that each individual to whom an ADS provides patient services is expressly advised and understands that the ADS is not a physician or a LAc; and

4. ...

D. The ADS and the supervising physician or supervising LAc shall bear equal and reciprocal obligations to insure strict compliance with the

obligations, responsibilities, and provisions set forth in the rules of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1624 (August 2008), LR

§5113. Causes for Action; Suspension, Revocation, Imposition of Restrictions

A. The board may suspend, revoke, or impose probationary conditions and restrictions on any certification or license issued under this Part, upon a finding, following hearing, that such individual is culpable of:

1.2. ...

3. perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a certificate or license to practice acupuncture or acupuncture detoxification;

4.-9 ...

10. knowingly performing any act which in any way assists a person who is not certified or licensed to practice acupuncture or acupuncture detoxification, or having professional connection with or lending one's name to an illegal practitioner;

11. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients;

12.-13. ...

14. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the certificate or license holder's physical and/or mental fitness and ability to practice acupuncture or acupuncture detoxification with reasonable skill or safety to patients;

15.-17. ...

B. The board may, as a probationary condition, or as a condition of the reinstatement of any certificate or license suspended or revoked hereunder, require the physician acupuncturist, licensed acupuncturist or acupuncture detoxification specialist to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees and, with respect to a physician acupuncturist or licensed acupuncturist, to pay a fine not to exceed the sum of \$5,000.

C. Any certificate or license suspended, revoked, or otherwise restricted by the board may be reinstated by the board, provided, however, that no application may be made to the board for reinstatement of a revoked certificate or license until not less than one year has elapsed from the date of the revocation. The board shall have discretion to accept or reject any application for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994), amended LR 34:1625 (August 2008), LR

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820,

Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4:00 p.m., May 22, 2017.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on Thursday, May 25, 2017 at 11:00 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Keith C. Ferdinand, M.D.
Interim Executive Director