



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

November 21, 2022

NOTICE OF FILING

ADMINISTRATIVE RULES

To: Secretary of the Senate
Clerk of the House of Representatives
Joint Committee on Administrative Rules
Michigan Office of Administrative Hearings and Rules (Administrative Rule #21-038-LR)
Legislative Service Bureau (Secretary of State Filing #22-11-04)
Department of Licensing and Regulatory Affairs

In accordance with the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Office of Administrative Hearings and Rules filed Administrative Rule #2021-038-LR (Secretary of State Filing #22-11-04) on this date at 2:32 P.M. for the Department of Licensing and Regulatory Affairs entitled, "Acupuncture – General Rules".

These rules take effect immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(9) 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.

Sincerely,

Jocelyn Benson
Secretary of State

A handwritten signature in black ink that reads "Lashana Threlkeld".

Lashana Threlkeld, Departmental Supervisor
Office of the Great Seal

Enclosure



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

ORLENE HAWKS
DIRECTOR

November 21, 2022

The Honorable Jocelyn Benson
Secretary of State
Office of the Great Seal
Richard H. Austin Building – 1st Floor
430 W. Allegan
Lansing, MI 48909

Dear Secretary Benson:

Re: Administrative Rules – Michigan Office of Administrative Hearings and Rules
Administrative Rules #: 2021-38 LR

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated March 15, 2022 for the Department of Licensing & Regulatory Affairs “**Acupuncture – General Rules**”. We are transmitting these rules to you pursuant to the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne Sonneborn", written over a horizontal line.

Michigan Office of Administrative Hearings and Rules



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

CERTIFICATE OF ADOPTION

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 338.13002 and R 338.13004 of the Michigan Administrative Code are amended, R 338.13011, R 338.13012, R 338.13013, R 338.13014, R 338.13016, R 338.13017, R 338.13031, R 338.13033, and R 338.13041 are added, and R 338.13005, R 338.13006, R 338.13007, R 338.13008, R 338.13010, R 338.13025, R 338.13026, R 338.13028, and R 338.13035 are rescinded.

Date: 8/15/2022

Adopted by: _____

Orlene Hawks

Director

Department of Licensing and Regulatory Affairs



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated March 15, 2022, in which the Department of Licensing and Regulatory Affairs proposes to modify a portion of the Michigan Administrative Code entitled “**Acupuncture-General Rules**” by:


- ◆ Amending R 338.13002 and R 338.13004.
- ◆ Adding R 338.13011, R 338.13012, R 338.13013, R 338.13014, R 338.13016, R 338.13017, R 338.13031, R 338.13033, and R 338.13041.
- ◆ Rescinding R 338.13005, R 338.13006, R 338.13007, R 338.13008, R 338.13010, R 338.13025, R 338.13026, R 338.13028, and R 338.13035.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: May 16, 2022

Michigan Office of Administrative Hearings and Rules

By: 
Ashlee N. Lynn,
Attorney



Since 1941

Legal Division

Kevin H. Studebaker, Director

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of Licensing and Regulatory Affairs dated March 15, 2022, amending 338.13002 and 338.13004, rescinding R 338.13005, R 338.13006, R 338.13007, R 338.13008, R 338.13010, R 338.13025, R 338.13026, R 338.13028, and R 338.13035, and adding R 338.13011, R 338.13012, R 338.13013, R 338.13014, R 338.13016, R 338.13017, R 338.13031, R 338.13033, and R 338.13041, of the Department's rules entitled "Acupuncture – General Rules." I approve the rules as to form, classification, and arrangement.

Dated: May 16, 2022

LEGISLATIVE SERVICE BUREAU

By _____

Rachel M. Hughart,
Legal Counsel

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

ACUPUNCTURE – GENERAL RULES

Filed with the secretary of state on November 21, 2022

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) 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 338.13002 and R 338.13004 of the Michigan Administrative Code are amended, R 338.13011, R 338.13012, R 338.13013, R 338.13014, R 338.13016, R 338.13017, R 338.13031, R 338.13033, and R 338.13041 are added, and R 338.13005, R 338.13006, R 338.13007, R 338.13008, R 338.13010, R 338.13025, R 338.13026, R 338.13028, and R 338.13035 are rescinded, as follows:

PART 1. GENERAL 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 who is licensed or registered shall have completed 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 self-certification statement must include the individual's name and 1 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 the 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.

R 338.13004 Approval and adoption of examinations; approval and adoption of standards of competence.

Rule 4. (1) The board approves and adopts the examinations developed, scored, and required for certification by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM).

(2) The board approves and adopts the NCCAOM national standards of competence in acupuncture and Oriental medicine as set forth in the document titled, "NCCAOM Certification Handbook," effective January 1, 2019. 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 Rescinded.

R 338.13006 Rescinded.

R 338.13007 Rescinded.

R 338.13008 Rescinded.

R 338.13010 Rescinded.

R 338.13011 Licensure of Michigan-registered acupuncturist; requirements.

Rule 11. Beginning April 1, 2021, and ending March 31, 2024, the department shall issue a license to an applicant who, in addition to meeting all the requirements of the code and the rules promulgated under 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 338.13012 Licensure of non-NCCAOM certified acupuncturist; requirements.

Rule 12. (1) Beginning April 1, 2021, and ending March 31, 2024, the department shall issue a license to an applicant who, in addition to meeting all the requirements of the code and the rules promulgated under the code, submits a completed application on a form provided by the department, together with the requisite fee, and satisfies both of the following:

- (a) The applicant shall establish that he or she is certified in clean needle technique by the Council of Colleges of Acupuncture and Oriental Medicine.
 - (b) 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 both of the following:
 - (i) 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 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.
 - (ii) The applicant shall establish that he or she has provided acupuncture treatment to an average of 50 or more unique patients per year during the 4 years preceding the date of application for licensure by submitting his or her patient and billing records. Documentation must not include multiple treatments provided to the same patient. The applicant shall ensure that patient confidentiality is protected on every document submitted by redacting all personal identifying information. A patient's initials or unique patient number shall be used on each document submitted to clearly identify the patient and billing records as belonging to a unique patient.
- (2) If documentation submitted pursuant to this rule is in a language other than English, an original, official translation must also be submitted.

R 338.13013 Licensure of NCCAOM-certified applicant; requirements.

Rule 13. The department shall issue a license to an applicant who, in addition to meeting all the requirements of the code and the rules promulgated under 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 Diplomate of Acupuncture or Diplomate of Oriental Medicine.

R 338.13014 Limited License; requirements; restrictions.

Rule 14. (1) Beginning April 1, 2021, and ending March 31, 2024, the department shall issue a limited license to an applicant who, in addition to meeting the requirements of the code and the rules promulgated under 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 described under section 16109(2) of the code, MCL 333.16109.

(c) The applicant holds a license to engage in another health profession as that term is 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 of the code, MCL 333.17001 to 333.17097, or part 175 of the code, MCL 333.17501 to 333.17556, 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 described 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 of the code, MCL 333.17001 to 333.17097, or part 175 of the code, MCL 333.17501 to 333.17556, 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 338.13016 Licensure by endorsement; requirements.

Rule 16. (1) An applicant for an acupuncturist license by endorsement, in addition to meeting all the requirements of the code and the rules promulgated under 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 or a license in good standing from a province of Canada 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 Diplomate of Acupuncture or Diplomate of Oriental Medicine.

(2) An applicant for licensure by endorsement shall comply with both of the following:

(a) Disclose each license, registration, or certification in a health profession or specialty issued by another state, the United States military, the federal government, or another country on the application form.

(b) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.

R 338.13017 Application for relicensure; requirements.

Rule 17. (1) An applicant whose license has lapsed may be relicensed by satisfying the requirements of the code and the rules promulgated under the code and upon submission of the appropriate documentation as noted in the table below:

(a) For an acupuncturist who has let his or her Michigan license lapse and is currently licensed or registered in another state or province of Canada.	Lapsed 0-3 years	Lapsed more than 3 years
(i) Submits a completed application on a form provided by the department, together with the required fee.	√	√
(ii) Establishes that he or she is of good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√
(iii) Submits fingerprints as required under section 16174(3) of the code, MCL 333.16174.		√
(iv) Submits proof of having completed 30 hours of continuing education in compliance with R 338.13031 and R 338.13033 within the 2-year period immediately preceding the application for relicensure.	√	√
(v) An applicant who is or has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country, shall do both of the following: (A) Disclose each license, registration, or certification on the application form. (B) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not	√	√

	pending against the applicant and sanctions are not in force at the time of application.		
(b)	For an acupuncturist who has let his or her Michigan license lapse and is not currently licensed or registered in another state or province of Canada.	Lapsed 0-3 years	Lapsed more than 3 years
(i)	Submits a completed application on a form provided by the department, together with the required fee.	√	√
(ii)	Establishes that he or she is of good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√
(iii)	Submits fingerprints as required under section 16174(3) of the code, MCL 333.16174.		√
(iv)	Submits proof of having completed 30 hours of continuing education in compliance with R 338.13031 and R 338.13033 within the 2-year period immediately preceding the application for relicensure.	√	√
(v)	Possesses a current and valid NCCAOM certification as a Diplomate of Acupuncture or Diplomate of Oriental Medicine.		√
(vi)	An applicant who is or has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country, shall do both of the following: (A) Disclose each license, registration, or certification on the application form. (B) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.	√	√

(2) If relicensure is granted and it is determined that a sanction has been imposed by another state, the United States military, the federal government, or another country, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

R 338.13025 Rescinded.

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

R 338.13026 Rescinded.

R 338.13028 Rescinded.

R 338.13031 Renewal of acupuncturist license; renewal of limited license; requirements; limitations; waiver request.

Rule 31. (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 satisfy the requirements of R 338.7001 to R 338.7005 and 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 that term is 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 described 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 338.13033 Acceptable continuing education, requirements.

Rule 33. (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 338.13031.

(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 338.13035 Rescinded.

PART 4. REGISTERED ACUPUNCTURIST, DELEGATION

R 338.13041 Registered acupuncturist; delegation.

Rule 41. Until March 31, 2024, a registered acupuncturist may engage in the practice of acupuncture under section 16511(1) of the code, MCL 333.16511, under the delegation of an allopathic physician or osteopathic physician and surgeon in accordance with sections 16104, 16109, and 16215(3)(a) of the code, MCL 333.16104, 333.16109, and 333.16215.

FILED WITH SECRETARY OF STATE

ON 11/21/22 AT 2:32 P.M.