

Readopt Acp 401.01, effective 6-27-12 (Document #10158), to read as follows:

Acp 401.01 License Term. Renewal licenses shall be valid for 2 years upon approval of application submitted in a timely manner in accordance with Acp 401.02(a).

Readopt with amendment Acp 401.03, effective 6-27-12 (Document #10158), to read as follows:

Acp 401.03 Application Form. An application form for license renewal shall require the applicant to supply the following information:

- (a) Name;
- (b) Residence and business addresses and telephone numbers;
- (c) A statement indicating whether the applicant is actively practicing acupuncture;
- (d) Disclosure, and explanation where applicable, of the following information regarding the previous 2-year period:
 - (1) If any malpractice claim has been made against the applicant, regardless of whether a lawsuit was filed in relation to the claim;
 - (2) If the applicant has been denied an acupuncture license, certificate, or registration anywhere for any reason;
 - (3) If the applicant had employment or appointment in a hospital, clinic or other health care facility suspended, or resigned from a health care facility in lieu of being subject to a disciplinary action;
 - (4) If the applicant has any formal disciplinary charges pending or if any disciplinary action has been taken against the applicant by any acupuncture or medical board, any health care facility, or any professional acupuncture association;
 - (5) If the applicant voluntarily surrendered a license to practice acupuncture or other healing art in lieu of facing disciplinary action;
 - (6) If the applicant has convicted of a crime involving violence, abuse, fraud, dishonesty, or drugs;
 - (7) If the applicant had a professional license in a field other than acupuncture revoked, suspended, or otherwise terminated on disciplinary grounds, or if any disciplinary actions are currently pending against the applicant in relation to any professional license held; and
 - (8) If the applicant has had an emotional disturbance, mental illness, organic illness, or addictive disorder which impaired the applicant's ability to practice acupuncture, and if so, a description of the treatment received and the outcome of such treatment;
- (e) ~~[Name(s) of courses or Professional Development Activities (PDAs) that are being submitted in fulfillment of the 30 unit continuing education requirement for renewal, enumerating the CEU value of~~

~~each~~ **Answer yes or no to the question “Have you completed 30 hours of continuing education as described in Acp 402.01?”;**

~~[(f)]~~ Copies of documentation of courses or PDAs claimed in Acp 401.03(e) above;

~~[(g)]~~ **(f)** An affirmation that the applicant is currently NCCAOM certified, specifying;

- (1) Active status with date of certification expiration; or
- (2) Inactive status with dates and explanation thereof.

~~[(h)]~~ **(g)** A representation that the applicant acknowledges that the willful provision of false information in the application shall be a basis for disciplinary action by the board;

~~[(i)]~~ **(h)** The applicant's signature on a statement which shall declare that the information and documentation provided in the application is true, accurate, complete, and unaltered; and

~~[(j)]~~ **(i)** The date the applicant signed the application.

Readopt with amendment Acp 401.05, effective 6-27-12 (Document #10158), to read as follows:

Acp 401.05 Denial of Renewal. License renewal shall be denied if, after notice and an opportunity for hearing, there is a preponderance of the evidence to establish:

- (a) Noncompliance with the continuing education requirement of Acp 402.01, notwithstanding the provisions of Acp 402.03(a);
- (b) Failure to furnish complete or accurate information on the renewal license application; ~~and~~ or
- (c) That the requirements of RSA 328-G:9, II, and these rules relative to licensure and qualifications have not been, or no longer continue to be, met.

Readopt with amendment Acp 402.01 and Acp 402.02, effective 6-27-12 (Document #10158), to read as follows:

Acp 402.01 Continuing Education Requirements.

(a) Each licensee shall complete 30 board approved units of PDAs for each 2-year renewal period[.]
by:

(1) Completing 30 continuing education units at approved institutions or as approved by the board as described in Acp 402.05; or

(2) Maintaining current, active NCCAOM certification shall fulfill the continuing education requirement.

(3) The licensee shall complete 15 units directly related to acupuncture, and 15 units indirectly related to acupuncture. Of those indirect units 2 shall be in safety and 2 shall be in ethics.

(b) Any units in excess of the 30-unit requirement earned during a 2-year renewal period shall be applied to fulfill the continuing education requirement of the following renewal period.

(c) Any excess PDAs carried forward under Acp 402.01(b) shall not be carried forward into subsequent biennia.

(d) If a licensee has not met the 30-unit requirement at the time of license renewal, the licensee may petition the board for a waiver of the deadline pursuant to Acp 402.02.

(e) The licensee shall be responsible for proving attendance at or participation in any continuing education courses or PDAs submitted for license renewal.

Acp 402.02 Failure to Satisfy Continuing Education Requirements.

(a) An applicant for license renewal who has not completed 30 CEUs for the preceding biennium:

(1) Shall file a petition with the board prior to the date of license expiration which proposes a specific timetable for completing specified courses or activities to correct the CEU deficiency; and

(2) Shall suspend practicing acupuncture on the date of license expiration until such deficiency has been resolved and until the license is renewed.

(b) Failure to submit such petition prior to the date of license expiration shall:

(1) Result in license expiration; and

(2) Necessitate application for a new license pursuant to Acp 301.01 and Acp 401.02(d).

Readopt with amendment Acp 402.05 and Acp 402.06, effective 6-27-12 (Document #10158), to read as follows:

Acp 402.05 Board Approval of Continuing Education Courses.

(a) The board shall automatically approve all courses related to acupuncture, ~~[Oriental]~~ **asian** medicine, and general medical education that meet the requirements of Acp 402.04 and are:

(1) Taught at schools that are ~~[ACAOM]~~ **ACAHO**M accredited, in candidacy, or board approved;

(2) Offered for credit at accredited colleges or universities;

(3) Approved by the NCCAOM review service;

(4) Approved by Continuing Education committees of the American Association of Acupuncture and ~~[Oriental]~~ **Asian** Medicine or other national professional healthcare associations; or

(5) Approved by other state licensing boards including those offered through state professional organizations following state licensing board requirements.

(b) Courses offered by sponsors other than those identified in Acp 402.05(a) shall be approved only if the course offered meets all the requirements of Acp 402.04 and the board receives a letter from the sponsor which requests approval and contains the following information:

- (1) The name, address, and phone number of the sponsoring agency or its contact person;
- (2) The title, location, and date of the course;
- (3) A description of all subjects covered by the course which demonstrates conformity with Acp 402.04(a) and (b);
- (4) The stated objective of the course and any other descriptive material about the course or the instructors which helps to evaluate the course;
- (5) A course syllabus, a course schedule with hourly breakdown, and a description of all required textbooks and~~[or]~~ equipment;
- (6) The name(s) and professional qualifications of the instructor(s); **and**
~~[(7) A statement that attendance shall be checked at least twice per session by a person officially designated by the sponsoring party; and]~~
~~[(8)](7)~~ A statement that attendees who are present for the entire course shall be given an attendance certificate for license renewal purposes.

(c) The board shall notify the sponsor of the board decision relative to Acp 402.05(b) within 60 days of receipt of the required letter.

(d) No course shall be advertised as having board approval until same is granted by the board.

Acp 402.06 Notification of Course Approval.

(a) Upon approving a continuing education course, the board shall issue to the sponsoring party a letter of course approval which contains:

- (1) The title of the course;
- (2) The date(s) the course is offered; and
- (3) The number of continuing education hours credited.

~~[(b) The board shall keep an updated list of approved courses available to any person upon request.]~~

Readopt Acp 403.01 through Acp 403.05, effective 6-27-12 (Document #10158), to read as follows:

Acp 403.01 Notice and Imposition of Sanctions.

(a) Other than immediate license suspensions authorized by RSA 541-A:30, III and Acp 403.03, the board shall impose disciplinary sanctions only:

- (1) After prior notice and an opportunity to be heard; or
 - (2) Pursuant to an agreed upon settlement or consent decree.
- (b) Actions constituting misconduct shall be those specified in RSA 328-G:12, II.

(c) Following a hearing and after a finding that misconduct has occurred by a licensee, the board shall impose, pursuant to RSA 328-G:12, III, one or more of the following sanctions ranked in order of increasing seriousness:

- (1) Public or private reprimand;
 - (2) An administrative fine in an amount established by the board which shall not exceed \$2000 per offense, or in the case of a continuing offense, \$250 for each day the violation continues.
 - (3) Suspension, limitation, or restriction of license; or
 - (4) Revocation of license.
- (d) In determining which sanction to impose, the board shall consider:

- (1) Aggravating factors such as:
 - a. The seriousness of the offense;
 - b. The licensee's prior disciplinary record, including number and type of prior instances of misconduct; and
 - c. The resulting harm to a person or to the public health and safety; and
- (2) Mitigating factors such as:
 - a. The lack of seriousness of the offense;
 - b. The licensee's lack of a prior disciplinary record;
 - c. The licensee's state of mind at the time of the offense;
 - d. The licensee's acknowledgment of his or her wrongdoing; and
 - e. The licensee's willingness to cooperate with the board.

(e) Copies of board orders imposing disciplinary sanctions and copies of all settlement agreements or consent decrees shall be sent to the licensing body of each state in which the licensee is licensed and to such other entities, organizations, associations, or boards as are required to be notified under applicable state or federal law.

Acp 403.02 Administrative Fines.

(a) Administrative fines shall be assessed in accordance with the factors stated in Acp 403.01(d), adjusted pursuant to (b) below, utilizing the following guidelines:

(1) When no violation has occurred within the 5 years preceding, the standard fine assessed shall be \$250 per offense;

(2) When a single disciplinary infraction has occurred within the 5 years preceding, the standard fine assessed shall be \$500;

(3) When more than one disciplinary infraction has occurred within the 5 years preceding, the standard fine assessed shall be \$1000;

(4) For any subsequent violation within a 5-year period, the standard fine shall be \$2000, notwithstanding (c) below; and

(5) In the case of a continuing offense, the standard fine shall be \$100 per day.

(b) A single course of continuing conduct shall be treated as a single violation for the purposes of (1), (2), (3), and (4) above.

(c) The board shall apply Acp 403.01(d) as aggravating and mitigating factors in establishing the actual amount of fines.

Acp 403.03 Immediate License Suspension.

(a) When the board receives information indicating that a licensee has engaged in dishonesty or misconduct that poses an immediate danger to life or health, the board shall issue an order pursuant to RSA 541-A:30, III, that sets forth the alleged misconduct and immediately suspends the license for up to 10 working days pending commencement of an adjudicatory proceeding. If commenced within 10 working days, the suspension shall continue until there is a decision in the proceeding.

(b) Suspension orders under this section shall include the notice of hearing pursuant to Acp 207.02(b).

(c) No hearing date established in a proceeding conducted under this section shall be postponed at the request of the licensee unless the licensee also agrees to continue the suspension period pending issuance of the board's final decision.

Acp 403.04 Voluntary License Surrender When Disciplinary Allegations are Pending.

(a) A licensee may surrender a license at any time.

(b) Surrender or nonrenewal of a license shall not preclude the board from investigating or completing a disciplinary proceeding based upon the licensee's conduct while the license is still in effect. Such investigations and proceedings shall be handled in the same manner as other disciplinary investigations and proceedings.

(c) A licensee who surrenders a license shall have no right or privilege in New Hampshire except as shall be specifically set forth in a board order settlement agreement, or order of a court of competent

jurisdiction. A licensee who reapplies for a license in New Hampshire after surrender shall meet all the requirements in effect for new applicants as set forth in statute and rules at that time.

(d) A licensee who surrenders a license as part of a settlement of pending misconduct allegations shall make a written settlement offer to the board before the close of the record in a disciplinary hearing.

(e) Any settlement agreement reached under (d) above, shall include the following concessions:

(1) That license surrender has occurred in settlement of pending disciplinary allegations; and

(2) That the pending allegations shall be issues to be resolved in any future application the licensee may submit in New Hampshire.

(f) The fact of license surrender pending disciplinary action and the terms of any settlement agreement pertaining thereto shall be distributed to all relevant licensing authorities and data bank in the same manner as a final decision containing specific findings of dishonesty or misconduct.

Acp 403.05 Reciprocal Discipline. When the board receives notice that a licensee has been subjected to suspension or revocation of a license without subsequent reinstatement, the board shall issue an order directing the licensee to demonstrate why reciprocal discipline should not be imposed in New Hampshire.

APPENDIX I

RULE	SPECIFIC STATE STATUTE THE RULE IMPLEMENTS
Acp 401.01	RSA 328-G:9, IX and RSA 328-G:7, II & III
Acp 401.03	RSA 328-G:7, I & III and RSA 328-G:9, IX & X
Acp 401.05	RSA 541-A:29, RSA 541-A:30, I, RSA 328-G:9, II, IX & X and RSA 328-G:7, III
Acp 402.01	RSA 328-G:9, X and RSA 328-G:7, III
Acp 402.02	RSA 328-G:9, X and RSA 328-G:7, III
Acp 402.05	RSA 328-G:9, X and RSA 328-G:7, III
Acp 402.06	RSA 328-G:9, X and RSA 328-G:7, III
Acp 403.01	RSA 328-G:12 and RSA 541-A:30, III
Acp 403.02	RSA 328-G:12, III(a)(4)
Acp 402.03	RSA 328-G:9, X and RSA 328-G:7, III
Acp 402.04	RSA 328-G:9, X and RSA 328-G:7, III
Acp 403.05	RSA 328-G:12, II