

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**BOARD OF
ACUPUNCTURE**



LAWS AND RULES

June 2009, Edition

Chapter 457, Florida Statutes and Chapter 64B1,
Florida Administrative Code

Licensees should also be familiar with the requirements of Chapter 456, F.S.

Current Statutes: www.flsenate.gov

Current Rules: www.flrules.org

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CHAPTER 457 ACUPUNCTURE

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457.101 Legislative intent.--The Legislature finds that the interests of the public health require the regulation of the practice of acupuncture in this state for the purpose of protecting the health, safety, and welfare of our citizens while making this healing art available to those who seek it.

History.--ss. 1, 2, ch. 80-375; ss. 2, 3, ch. 81-318; ss. 1, 13, 14, ch. 86-265; s. 57, ch. 91-137; s. 4, ch. 91-156; s. 4, ch. 91-429.

Note.--Former s. 468.321.

457.102 Definitions.--As used in this chapter:

(1) "Acupuncture" means a form of primary health care, based on traditional Chinese medical concepts and modern oriental medical techniques, that employs acupuncture diagnosis and treatment, as well as adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. Acupuncture shall include, but not be limited to, the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body and the use of electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies, as defined by board rule.

(2) "Acupuncturist" means any person licensed as provided in this chapter to practice acupuncture as a primary health care provider.

(3) "Board" means the Board of Acupuncture.

(4) "License" means the document of authorization issued by the department for a person to engage in the practice of acupuncture.

(5) "Department" means the Department of Health.

(6) "Oriental medicine" means the use of acupuncture, electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies.

(7) "Prescriptive rights" means the prescription, administration, and use of needles and devices, restricted devices, and prescription devices that are used in the practice of acupuncture and oriental medicine.

History.--ss. 1, 2, ch. 80-375; ss. 2, 3, ch. 81-318; s. 38, ch. 83-329; ss. 2, 13, 14, ch. 86-265; s. 57, ch. 91-137; s. 4, ch. 91-156; s. 4, ch. 91-429; s. 101, ch. 94-218; s. 6, ch. 97-264; s. 1, ch. 98-418; s. 90, ch. 99-397; s. 62, ch. 2000-318.

Note.--Former s. 468.322.

457.103 Board of Acupuncture; membership; appointment and terms.--

(1) The Board of Acupuncture is created within the department and shall consist of seven members, to be appointed by the Governor and confirmed by the Senate. Five members of the board must be licensed Florida acupuncturists. Two members must be laypersons who are not and who have never been acupuncturists or members of any closely related profession. Members shall be appointed for 4-year terms or for the remainder of the unexpired term of a vacancy.

(2) All provisions of chapter 456 relating to the board shall apply.

History.--ss. 39, 118, ch. 83-329; ss. 3, 13, 14, ch. 86-265; s. 57, ch. 91-137; s. 4, ch. 91-156; s. 4, ch. 91-429; s. 1, ch. 92-28; s. 102, ch. 94-218; s. 7, ch. 97-264; s. 40, ch. 98-166; s. 2, ch. 98-418; s. 100, ch. 2000-160.

457.104 Rulemaking authority.--The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this chapter conferring duties upon it.

History.--ss. 40, 118, ch. 83-329; ss. 4, 13, 14, ch. 86-265; s. 57, ch. 91-137; s. 4, ch. 91-156; s. 4, ch. 91-429; s. 119, ch. 98-200.

457.105 Licensure qualifications and fees.--

(1) It is unlawful for any person to practice acupuncture in this state unless such person has been licensed by the board, is in a board-approved course of study, or is otherwise exempted by this chapter.

(2) A person may become licensed to practice acupuncture if the person applies to the department and:

(a) Is 21 years of age or older, has good moral character, and has the ability to communicate in English, which is demonstrated by having passed the national written examination in English or, if such examination was passed in a foreign language, by also having passed a nationally recognized English proficiency examination;

(b) Has completed 60 college credits from an accredited postsecondary institution as a prerequisite to enrollment in an authorized 3-year course of study in acupuncture and oriental medicine, and has completed a 3-year course of study in acupuncture and oriental medicine, and effective July 31, 2001, a 4-year course of study in acupuncture and oriental medicine, which meets standards established by the board by rule, which standards include, but are not limited to, successful completion of academic courses in western anatomy, western physiology, western pathology, western biomedical terminology, first aid, and cardiopulmonary resuscitation (CPR). However, any person who enrolled in an authorized course of study in acupuncture before August 1, 1997, must have completed only a 2-year course of study which meets standards established by the board by rule, which standards must include, but are not limited to, successful completion of academic courses in western anatomy, western physiology, and western pathology;

(c) Has successfully completed a board-approved national certification process, is actively licensed in a state that has examination requirements that are substantially equivalent to or more stringent than those of this state, or passes an examination administered by the department, which examination tests the applicant's competency and knowledge of the practice of acupuncture and oriental medicine. At the request of any applicant, oriental nomenclature for the points shall be used in the examination. The examination shall include a practical examination of the knowledge and skills required to practice modern and traditional acupuncture and oriental medicine, covering diagnostic and treatment techniques and procedures; and

(d) Pays the required fees set by the board by rule not to exceed the following amounts:

1. Examination fee: \$500 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from a national organization approved by the board.

2. Application fee: \$300.

3. Reexamination fee: \$500 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from a national organization approved by the board.

4. Initial biennial licensure fee: \$400, if licensed in the first half of the biennium, and \$200, if licensed in the second half of the biennium.

History.--ss. 1, 2, ch. 80-375; ss. 1, 6, ch. 81-227; s. 334, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 1, 6, ch. 82-172; s. 41, ch. 83-329; ss. 5, 13, 14, ch. 86-265; s. 2, ch. 88-205; s. 16, ch. 89-162; s. 1, ch. 89-318; s. 57, ch. 91-137; s. 4, ch. 91-156; s. 4, ch. 91-429; s. 196, ch. 97-103; s. 8, ch. 97-264; s. 3, ch. 98-418; s. 63, ch. 2000-318.

Note.--Former s. 468.323.

457.107 Renewal of licenses; continuing education.--

(1) The department shall renew a license upon receipt of the renewal application and the required fee set by the board by rule, not to exceed \$500.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

(3) The board shall by rule prescribe continuing education requirements, not to exceed 30 hours biennially, as a condition for renewal of a license. All education programs that contribute to the advancement, extension, or enhancement of professional skills and knowledge related to the practice of acupuncture, whether conducted by a nonprofit or profitmaking entity, are eligible for approval. The continuing professional education requirements must be in acupuncture or oriental medicine subjects, including, but not limited to, anatomy, biological sciences, adjunctive therapies, sanitation and sterilization, emergency protocols, and diseases. The board shall have the authority to set a fee, not to exceed \$100, for each continuing education provider. The licensee shall retain in his or her records the certificates of completion of continuing professional education requirements to prove compliance with this subsection. The board may request such documentation without cause from applicants who are selected at random. All national and state acupuncture and oriental medicine organizations and acupuncture and oriental medicine schools are approved to provide continuing professional education in accordance with this subsection.

History.--ss. 1, 2, ch. 80-375; ss. 2, 6, ch. 81-227; ss. 2, 3, ch. 81-318; s. 42, ch. 83-329; ss. 6, 13, 14, ch. 86-265; s. 3, ch. 88-205; s. 17, ch. 89-162; s. 57, ch. 91-137; s. 4, ch. 91-156; s. 4, ch. 91-429; s. 161, ch. 94-119; s. 9, ch. 97-264; s. 4, ch. 98-418; s. 64, ch. 2000-318; s. 7, ch. 2001-277.

Note.--Former s. 468.324.

457.108 Inactive status; expiration; reactivation of licenses.--

(1) A license that has become inactive may be reactivated under this section upon application to the department. The board shall prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license must not exceed 10 classroom hours for each year the license was inactive, in addition to completion of the number of hours required for renewal on the date the license became inactive.

(2) The board shall adopt rules relating to application procedures for inactive status, renewal of inactive licenses, and reactivation of licenses. The board shall prescribe by rule an application fee for inactive status, a renewal fee for inactive status, a delinquency fee, and a fee for the reactivation of a license. None of these fees may exceed the biennial renewal fee established by the board for an active license.

(3) The department shall not reactivate a license unless the inactive or delinquent licensee has paid any applicable biennial renewal or delinquency fee, or both, and a reactivation fee.

History.--ss. 7, 14, ch. 86-265; s. 57, ch. 91-137; s. 4, ch. 91-156; s. 4, ch. 91-429; s. 162, ch. 94-119; s. 10, ch. 97-264.

457.1085 Infection control.--Prior to November 1, 1986, the board shall adopt rules relating to the prevention of infection, the safe disposal of any potentially infectious materials, and other

requirements to protect the health, safety, and welfare of the public. Beginning October 1, 1997, all acupuncture needles that are to be used on a patient must be sterile and disposable, and each needle may be used only once.

History.--ss. 8, 14, ch. 86-265; s. 57, ch. 91-137; s. 4, ch. 91-156; s. 4, ch. 91-429; s. 11, ch. 97-264.

457.109 Disciplinary actions; grounds; action by the board.--

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Attempting to obtain, obtaining, or renewing a license to practice acupuncture by bribery, by fraudulent misrepresentations, or through an error of the department.

(b) Having a license to practice acupuncture revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime which directly relates to the practice of acupuncture or to the ability to practice acupuncture. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising or advertising which claims that acupuncture is useful in curing any disease.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

(g) Aiding, assisting, procuring, employing, or advising any unlicensed person to practice acupuncture contrary to this chapter or to a rule of the department.

(h) Failing to perform any statutory or legal obligation placed upon a licensed acupuncturist.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed acupuncturist.

(j) Exercising influence within a patient-acupuncturist relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her acupuncturist.

(k) Making deceptive, untrue, or fraudulent representations in the practice of acupuncture or employing a trick or scheme in the practice of acupuncture when such scheme or trick fails to conform to the generally prevailing standards of treatment in the community.

(l) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is

any communication which directly or implicitly requests an immediate oral response from the recipient.

(m) Failing to keep written medical records justifying the course of treatment of the patient.

(n) Exercising influence on the patient to exploit the patient for the financial gain of the licensee or of a third party.

(o) Being unable to practice acupuncture with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to serve as an acupuncturist due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as an acupuncturist. The licensee against whom the petition is filed shall not be named or identified by initials in any public court record or document, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. An acupuncturist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of acupuncture with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department shall be used against an acupuncturist in any other proceeding.

(p) Gross or repeated malpractice or the failure to practice acupuncture with that level of care, skill, and treatment which is recognized by a reasonably prudent similar acupuncturist as being acceptable under similar conditions and circumstances.

(q) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(r) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(s) Violating a lawful order of the board previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(t) Conspiring with another to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(u) Fraud or deceit or gross negligence, incompetence, or misconduct in the operation of a course of study.

(v) Failing to comply with state, county, or municipal regulations or reporting requirements relating to public health and the control of contagious and infectious diseases.

(w) Failing to comply with any rule of the board relating to health and safety, including, but not limited to, the sterilization of needles and equipment and the disposal of potentially infectious materials.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) The department shall not reinstate the license of an acupuncturist, or cause a license to be issued to a person it has deemed to be unqualified, until such time as the board is satisfied that he or she has complied with all the terms and conditions set forth in the final order and is capable of safely engaging in the practice of acupuncture.

History.--ss. 1, 2, ch. 80-375; ss. 4, 6, ch. 81-227; ss. 2, 3, ch. 81-318; s. 43, ch. 83-329; ss. 9, 13, 14, ch. 86-265; s. 57, ch. 91-137; s. 4, ch. 91-156; s. 4, ch. 91-429; s. 197, ch. 97-103; s. 12, ch. 97-264; s. 17, ch. 2001-277; s. 2, ch. 2005-240; s. 68, ch. 2008-6.

Note.--Former s. 468.325.

457.116 Prohibited acts; penalty.--

(1) A person may not:

(a) Practice acupuncture unless the person is licensed under ss. 457.101-457.118;

(b) Use, in connection with his or her name or place of business, any title or description of services which incorporates the words "acupuncture," "acupuncturist," "certified acupuncturist," "licensed acupuncturist," "oriental medical practitioner"; the letters "L.Ac.," "R.Ac.," "A.P.," or "D.O.M."; or any other words, letters, abbreviations, or insignia indicating or implying that he or she practices acupuncture unless he or she is a holder of a valid license issued pursuant to ss. 457.101-457.118;

(c) Present as his or her own the license of another;

(d) Knowingly give false or forged evidence to the board or a member thereof;

(e) Use or attempt to use a license that has been suspended, revoked, or placed on inactive or delinquent status;

(f) Employ any person who is not licensed pursuant to ss. 457.101-457.118 to engage in the practice of acupuncture; or

(g) Conceal information relating to any violation of ss. 457.101-457.118.

(2) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--ss. 1, 2, ch. 80-375; ss. 2, 3, ch. 81-318; ss. 10, 13, 14, ch. 86-265; s. 57, ch. 91-137; s. 4, ch. 91-156; s. 85, ch. 91-224; s. 4, ch. 91-429; s. 198, ch. 97-103; s. 13, ch. 97-264; s. 5, ch. 98-418.

Note.--Former s. 468.328.

457.118 Effect of chapter on other health care practices.--This chapter shall not be construed to expand or limit the scope of practice authorized for any health care professional licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 466, chapter 474, or chapter 486, as such scope of practice is defined by statute or rule.

History.--ss. 1, 2, ch. 80-375; s. 335, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 4, 6, ch. 82-172; ss. 11, 13, 14, ch. 86-265; s. 57, ch. 91-137; s. 4, ch. 91-156; s. 4, ch. 91-429.

Note.--Former s. 468.329.

64B 1 Board of Acupuncture

Rule No	Rule Title	Effective Date
<u>64B1-1.003</u>	Other Business Involving the Board	9/3/2000
<u>64B1-1.0035</u>	Excused Absences	11/4/1999

64B1-1.003 Other Business Involving the Board.

For the purposes of Board member compensation under subsection (4) of Section 456.011, Florida Statutes, "other business involving the Board" is defined to include:

- (1) Board meetings;
- (2) Meetings of committees of the Board;
- (3) Meetings of a Board member with Department staff or contractors of the Department at the Department or Board's request. Any participation or meeting of members noticed or unnoticed will be on file in the Board office;
- (4) Probable cause panel meetings;
- (5) All participation in board-authorized meetings with professional associations of which the board is a member or invitee. This would include, but not be limited to, all meetings of national associations of which the board is a member as well as board-authorized participation in meetings of national or professional associations or organizations involved in educating, regulating, or reviewing the profession over which the board has statutory authority; and
- (6) Conference calls for which licensing or disciplinary action is agendaed and which exceed one hour in duration; or which are called on an emergency basis.

Specific Authority 456.011(4), 457.104 FS. Law Implemented 456.011(4) FS. History—New 4-5-84, Formerly 21AA-1.03, 21AA-1.003, Amended 7-4-94, Formerly 61F1-1.003, Amended 2-19-96, Formerly 59M-1.003, Amended 11-13-97, 9-3-00.

64B1-1.0035 Excused Absences.

Excused absences of board members are defined as absences caused by:

- (1) Illness or injury of the board member;
- (2) Illness, injury or death of a board member's immediate family;
- (3) Jury duty;
- (4) State or federal military service.

Specific Authority 456.011(3) FS. Law Implemented 456.011(3) FS. History—New 11-4-99.

Rule No	Rule Title	Effective Date
<u>64B1-2.001</u>	Biennial Renewal Fee	9/23/2003
<u>64B1-2.0015</u>	Delinquent Fee	6/8/2000
<u>64B1-2.004</u>	Application Fee	12/21/1987
<u>64B1-2.005</u>	Examination Fee	4/5/1999
<u>64B1-2.006</u>	Re-examination Fee	1/1/2004
<u>64B1-2.009</u>	Initial Continuing Education Provider Registration Fee	3/21/2004
<u>64B1-2.0095</u>	Continuing Education Provider Registration Renewal Fee	3/21/2004
<u>64B1-2.010</u>	Fees for Inactive Status and Change to Active Status	1/26/2006
<u>64B1-2.011</u>	Initial Biennial License Fee	4/7/1998
<u>64B1-2.012</u>	Endorsement Fee	10/1/1989
<u>64B1-2.014</u>	Fee for Wall Certificate or Duplicate License	5/8/2000
<u>64B1-2.015</u>	Fee for Certification of a Public Record	3/22/1992
<u>64B1-2.016</u>	Unauthorized Practice Fee	10/22/2002
<u>64B1-2.018</u>	Retired Status and Reactivation of Retired Status License Fees.	1/26/2006

64B1-2.001 Biennial Renewal Fee.

- (1) The biennial renewal fee for an active license shall be \$300.00.
(2) The biennial renewal fee for an inactive license shall be \$150.00.

Specific Authority 456.036(3), 457.104, 457.107(1), 457.108(2) FS. Law Implemented 456.036(3), 457.107(1), 457.108(2) FS. History—New 4-5-84, Amended 11-19-85, Formerly 21AA-2.01, Amended 12-21-87, 7-16-89, Formerly 21AA-2.001, 61F1-2.001, Amended 10-25-95, Formerly 59M-2.001, Amended 5-8-00, 9-23-03.

64B1-2.0015 Delinquent Fee.

The delinquent fee applicable to any licensed acupuncturist who fails to on a timely basis renew on a timely basis shall be \$200. The delinquency fee shall be due and payable at the time the licensee shall apply for active or inactive status.

Specific Authority 456.036 FS. Law Implemented 456.036 FS. History—New 10-25-95, Amended 2-21-96, Formerly 59M-2.0015, Amended 6-8-00.

64B1-2.004 Application Fee.

The application fee shall be \$300.00.

Specific Authority 457.104, 457.105(2)(d) FS. Law Implemented 457.105(2)(d) FS. History—New 8-8-84, Amended 11-19-85, Formerly 21AA-2.04, Amended 12-21-87, Formerly 21AA-2.004, 61F1-2.004, 59M-2.004.

64B1-2.005 Examination Fee.

The fee is \$950 for taking the written examination and the practical examinations, administered by the Department of Health (DOH). After the October 1999 examination application deadline, all initial applicants for examination will continue to apply to the Board for licensure but will apply

directly to the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) for examination. DOH will no longer administer either the written or the practical examination after that date.

Specific Authority 120.53(1), 457.104, 457.105(2)(d) FS. Law Implemented 457.105(2)(d) FS. History–New 8-8-84, Amended 11-19-85, Formerly 21AA-2.05, Amended 12-21-87, 6-27-90, Formerly 21AA-2.005, 61F1-2.005, Amended 9-17-95, 11-21-95, Formerly 59M-2.005, Amended 4-5-99.

64B1-2.006 Re-examination Fee.

The re-examination fees are:

- (1) NCCAOM Acupuncture Theory – \$350.
- (2) NCCAOM Clean Needle Technique – \$250.
- (3) NCCAOM PEPLS – \$350.

Specific Authority 457.104, 457.105(2)(d) FS. Law Implemented 457.105(2)(d) FS. History–New 8-8-84, Formerly 21AA-2.06, Amended 2-2-86, 12-21-87, 3-11-92, Formerly 21AA-2.006, 61F1-2.006, Amended 9-17-95, 11-21-95, Formerly 59M-2.006, Amended 4-5-99, 1-1-04.

64B1-2.009 Initial Continuing Education Provider Registration Fee.

The initial continuing education provider registration fee shall be one hundred dollars (\$100.00).

Specific Authority 456.025, 457.104, 457.107(3) FS. Law Implemented 456.025, 457.107(3) FS. History–New 5-12-87,

64B1-2.0095 Continuing Education Provider Registration Renewal Fee.

The biennial continuing education provider registration renewal fee shall be one hundred dollars (\$100.00).

Specific Authority 456.025, 457.104, 457.107(3) FS. Law Implemented 456.025, 457.107(3) FS. History–New 3-21-04. Amended 9-15-92, Formerly 21AA-2.009, 61F1-2.009, 59M-2.009, Amended 3-21-04.

64B1-2.010 Fees for Inactive Status and Change to Active Status.

The following fees shall be paid as appropriate:

- (1) Application fee for inactive status shall be \$200.
- (2) Change of status fee for change other than at the time of renewal shall be \$200.
- (3) Fee for the reactivation of a license shall be \$300.

Specific Authority 456.036(3), (4), (8), 457.104, 457.108(2) FS. Law Implemented 456.036(3), (4), (8), 457.108(2) FS. History–New 5-12-87, Amended 12-21-87, 8-6-89, Formerly 21AA-2.010, 61F1-2.010, Amended 10-25-95, Formerly 59M-2.010, Amended 5-8-00, 1-26-06.

64B1-2.011 Initial Biennial License Fee.

The initial biennial license fee shall be \$400.00 for those who are licensed during the first half of the biennial period. For those who are certified during the second half of the biennial period, the initial certification fee shall be \$200.00.

Specific Authority 457.104, 457.105(2)(d) FS. Law Implemented 457.105(2)(d) FS. History–New 5-12-87, Amended 12-21-87, Formerly 21AA-2.011, Amended 10-17-93, Formerly 61F1-2.011, 59M-2.011, Amended 4-7-98.

64B1-2.012 Endorsement Fee.

The fees for endorsement shall be as follows:

- (1) Application fee shall be \$300.00.

(2) Examination fee shall be \$200.00.

(3) Re-examination fee shall be \$200.00.

Specific Authority 457.104, 457.105(2)(d) FS. Law Implemented 457.105(2)(d) FS. History–New 10-1-89, Formerly 21AA-2.012, 61F1-2.012, 59M-2.012.

64B1-2.014 Fee for Wall Certificate or Duplicate License.

The fee for issuance of a new or duplicate wall certificate or a duplicate license shall be \$25.00.

Specific Authority 456.025(2), (7), 457.104 FS. Law Implemented 456.025(2), (7) FS. History–New 11-26-90, Amended 3-22-92, Formerly 21AA-2.014, Amended 10-17-93, Formerly 61F1-2.014, 59M-2.014, Amended 5-8-00.

64B1-2.015 Fee for Certification of a Public Record.

The Board shall charge a fee of twenty-five dollars (\$25.00) for the certification of a public record.

Specific Authority 456.025(8) FS. Law Implemented 456.025(5) FS. History–New 3-22-92, Formerly 21AA-2.015, 61F1-2.015, 59M-2.015.

64B1-2.016 Unauthorized Practice Fee.

As provided in Section 456.065(3), Florida Statutes, the fee for enforcement of the laws prohibiting the unauthorized practice of acupuncture shall be \$5.00 in addition to the initial license fee and the license renewal fee each biennium.

Specific Authority 456.065 FS. Law Implemented 456.065 FS. History–New 10-17-93, Formerly 61F1-2.016, 59M-2.016, Amended 10-15-97, 10-22-02.

64B1-2.018 Retired Status and Reactivation of Retired Status License; Fees.

(1) A licensee may place an active or inactive license in retired status at any time. If the license is placed in retired status at the time of renewal the licensee shall pay the retired status fee of \$50.00. If the license is placed in retired status at any time other than at the time of license renewal the licensee shall pay the change of status processing fee described in Rule 64B1-2.010, F.A.C., and the retired status fee of \$50.00.

(2) A licensee may reactivate a retired status license at any time, subject to meeting the following requirements:

(a) Paying the reactivation fee, which shall be the same amount as the renewal fee for an active status licensee under these rules for each biennial licensure period in which the licensee was in retired status;

(b) Demonstrating satisfaction of the continuing education requirements of Rule 64B1-7.0015, F.A.C., for each licensure biennial period in which the licensee was in retired status.

Specific Authority 456.036(15), 457.104, 457.108 FS. Law Implemented 456.036(2), (4), (12), 457.108 FS. History–New 1-26-06.

Rule No	Rule Title	Effective Date
<u>64B1-3.001</u>	Definitions	9/6/2006
<u>64B1-3.003</u>	Documents in a Foreign Language	8/13/1984
<u>64B1-3.004</u>	Acupuncture Examination	5/8/2008
<u>64B1-3.008</u>	Security and Monitoring Procedures for Licensure Examinations	6/1/1999
<u>64B1-3.009</u>	Licensure by Endorsement Through National Certification	10/11/2004
<u>64B1-3.010</u>	Licensure by Endorsement Through Another State License	2/22/2001

64B1-3.001 Definitions.

(1) Acupuncture means a form of primary health care based on traditional Chinese medical concepts, that employs acupuncture diagnosis and treatment, as well as adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. Acupuncture shall include but not be limited to the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body.

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

(a) Auricular, hand, nose, face, foot and/or scalp acupuncture therapy;

(b) Stimulation to acupuncture points and channels by use of any of the following:

1. Needles, moxibustion, cupping, thermal methods, magnets, gwa-sha scraping techniques, acupatches, and acuform;

2. Manual stimulation including acutotement (which is defined as stimulation by an instrument that does not pierce the skin), massage, acupressure, reflexology, shiatsu, and tui-na;

3. Electrical stimulation including electro-acupuncture, percutaneous and transcutaneous electrical nerve stimulation;

4. Laser biostimulation in accordance with relevant federal law including Food and Drug Administration rules and regulations, providing written notice of such intended use together with proof of compliance with federal requirements are received by the Board of Acupuncture not less than 14 days prior to first time use.

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

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

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

(a) Nutritional counseling and the recommendation of nonprescription substances which meet the Food and Drug Administration labeling requirements, as dietary supplements to promote health;

(b) Recommendation of breathing techniques and therapeutic exercises;

(c) Lifestyle and stress counseling;

(d) The recommendation of all homeopathic preparations approved by the Food and Drug Administration and the United States Homeopathic Pharmacopeia Committee; and

(e) Herbology.

Specific Authority 457.102, 457.104 FS. Law Implemented 457.102 FS. History—New 8-13-84,

Amended 9-19-84, Formerly 21AA-3.01, Amended 12-14-87, 9-3-89, 5-30-91, 1-26-92, 2-27-92, Formerly 21AA-3.001, 61F1-3.001, 59M-3.001, Amended 9-6-06.

64B1-3.003 Documents in a Foreign Language.

All documentation submitted in a language other than English shall be accompanied by a translation into English by a translator other than the applicant, which translated documents must bear the affidavit of the translator certifying that he is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original, and be sworn to before a notary public. Translation of any document relative to a person's application shall be at the expense of the applicant.

Specific Authority 457.104 FS. Law Implemented 457.105 FS. History—New 8-13-84, Formerly 21AA-3.03, 21AA-3.003, 61F1-3.003, 59M-3.003.

64B1-3.004 Acupuncture Examination.

The Board currently approves as the Florida examination for licensure the NCCAOM examination, consisting of the Foundations of Oriental Medicine Module and the Acupuncture with Point Location Module.

Specific Authority 456.017, 457.104 FS. Law Implemented 456.017, 457.104 FS. History—New 8-13-84, Amended 10-2-84, Formerly 21AA-3.04, Amended 1-25-88, 9-3-89, 2-27-92, 5-6-92, Formerly 21AA-3.004, Amended 1-27-94, Formerly 61F1-3.004, Amended 11-21-95, Formerly 59M-3.004, Amended 10-15-97, 5-11-98, 4-20-99, 1-1-04, 7-19-04, 5-8-08.

64B1-3.008 Security and Monitoring Procedures for Licensure Examinations.

The Board adopts by referenced Rule 64B-1.010, F.A.C., of the Department of Health, effective September 7, 1998 as its rule governing licensure examinations.

Specific Authority 456.017(1)(d) FS. Law Implemented 456.017(1)(d) FS. History—New 8-13-84, Formerly 21AA-3.08, 21AA-3.008, 61F1-3.008, 59M-3.008, Amended 6-1-99.

64B1-3.009 Licensure by Endorsement Through National Certification.

Pursuant to Section 457.105(2)(c), F.S., the Board of Acupuncture will certify for licensure by endorsement those applicants who establish successful completion of a board-approved national certification or recertification process and demonstrate they meet the requirements of Sections 457.105(2)(a) and (b), F.S. The applicant must establish successful completion of a board-approved national certification process by requesting notification of certification or recertification be provided to the Board by the national certification organization. For the purpose of this requirement the Board approves the National Commission for Certification of Acupuncturist and Oriental Medicine certification. Each applicant for licensure under this section must meet the minimum program requirements of Rule 64B1-4.001, F.A.C. Applicants must establish this requirement by submitting, as part of the application, the documents described in Rule 64B1-4.0011, F.A.C.

Specific Authority 457.104 FS. Law Implemented 457.105 FS. History—New 10-1-89, Amended 2-27-92, Formerly 21AA-3.009, 61F1-3.009, Amended 3-31-96, 11-13-96, Formerly 59M-3.009, Amended 10-15-97, 4-29-99, 1-1-04, 10-11-04.

64B1-3.010 Licensure by Endorsement Through Another State License.

Pursuant to Section 457.105(2)(c), F.S., the Board of Acupuncture will certify for licensure those applicants who satisfy the following requirements:

- (1) Submit a completed application;
- (2) Submit all applicable fees;
- (3) Submit proof of being actively licensed in a state which has examination requirements that

are substantially equivalent to or more stringent than those of this state; and demonstrate successful completion of the Clean Needle Course administered by the Council of Colleges of Acupuncture and Oriental Medicine (CCAOM) by providing a CCAOM certificate to the Board. Applicants must establish their other state licensure by requesting the licensing authority of the other state provide to the Board a statement which indicates the current status of the applicant's license as of the date of statement, the expiration date of the other state license, and the basis for issuing the other state license including examination requirements which the applicant was required to successfully complete in order to be licensed in that state.

(4) Submit proof that the applicant has met the requirements of Sections 457.105(2)(a) and (b), F.S., and Rule 64B1-4.001, F.A.C. Applicants must establish that they meet the requirements of Sections 457.105(2)(a) and (b), F.S., and Rule 64B1-4.001, F.A.C., by providing the documents described in Rule 64B1-4.0011, F.A.C.

Specific Authority 457.104, 457.105, 457.1085 FS. Law Implemented 457.105, 457.1085 FS. History—New 10-1-89, Amended 2-27-92, Formerly 21AA-3.010, 61F1-3.010, Amended 2-20-96, Formerly 59M-3.010, Amended 4-7-98, 2-22-01.

Rule No	Rule Title	Effectiv Date
<u>64B1-4.001</u>	Acupuncture Program Requirements	5/30/2007
<u>64B1-4.0011</u>	Documentation Necessary for Licensure Application	5/25/2009
<u>64B1-4.0012</u>	English Proficiency Requirement for Licensure	5/25/2009
<u>64B1-4.0015</u>	Supervised Clinical Experience Defined	2/26/2001
<u>64B1-4.004</u>	Herbal Therapies	12/24/2000
<u>64B1-4.005</u>	Oriental Massage	12/24/2000
<u>64B1-4.006</u>	Qi Gong	12/24/2000
<u>64B1-4.007</u>	Electroacupuncture	12/24/2000
<u>64B1-4.008</u>	Adjunctive Therapies	12/24/2000
<u>64B1-4.009</u>	Dietary Guidelines	12/24/2000
<u>64B1-4.010</u>	Traditional Chinese Medical Concepts, Modern Oriental Medical Techniques	11/6/2001
<u>64B1-4.011</u>	Diagnostic Techniques	11/6/2001
<u>64B1-4.012</u>	Acupoint Injection Therapies	2/18/2001

64B1-4.001 Acupuncture Program Requirements.

In order to be certified to take the licensure examination or to be eligible for licensure by endorsement, the applicant must establish that he/she has met the following minimal requirements.

(1) For students enrolled in a program prior to August 1, 1997, applicants under this section must have completed at least 900 hours of supervised instruction in traditional oriental acupuncture and at least 600 hours of supervised clinical experience. All applicants under this provision must have started classes no later than February 1, 1998.

(2) Applicants who apply for licensure on or after August 1, 2001 must have completed a core curriculum comparable to that of the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) master's level program in oriental medicine with a minimum of 2700 hours of supervised instruction:

(a) 15 hours of supervised instruction in universal precautions; and

(b) 20 hours of supervised instruction in Florida Statutes and Rules, including Chapters 456 and 457, F.S., and this rule chapter.

(3) Applicants who apply for licensure on or after October 1, 2003 must have graduated from an ACAOM candidate or accredited 4-year master's level program or foreign equivalent in oriental medicine with a minimum of 2700 hours of supervised instruction:

(a) 15 hours of supervised instruction in universal precautions; and

(b) 20 hours of supervised instruction in Florida Statutes and Rules, including Chapters 456 and 457, F.S., and this rule chapter. For purposes of the Florida Statutes and Rules and HIV/AIDS requirements imposed by this chapter for initial licensure, the term "supervised instruction" shall mean instruction in a Board approved continuing education program or in a program offered at an ACAOM accredited oriental medicine school.

(4) For applicants who enroll on or after July 31, 2001, applicants must have completed an eight hour program that incorporates the safe and beneficial use of laboratory test and imaging

findings in the practice of acupuncture and oriental medicine.

Specific Authority 457.102, 457.104, 457.105 FS. Law Implemented 456.033, 457.102, 457.105 FS. History—New 8-30-84, Formerly 21AA-4.01, Amended 7-20-88, 4-30-89, 9-19-89, 3-18-92, Formerly 21AA-4.001, 61F1-4.001, Amended 3-24-96, Formerly 59M-4.001, Amended 12-31-97, 11-1-99, 6-21-00, 4-3-01, 5-24-04, 10-11-04, 10-24-04, 5-30-07.

64B1-4.0011 Documentation Necessary for Licensure Application.

(1) A properly completed application shall be submitted on Department of Health Form DH-MQA 1116-03/09, adopted and incorporated herein by reference as this Board's application and available on the web at www.doh.state.fl.us/mqa. To complete the application attach the appropriate fees and supporting documents and submit it to the Board Office.

(2) In order to be certified to take the licensure examination or to be certified for licensure by endorsement, the applicant must establish that he or she has completed an acupuncture program of coursework and clinical experience that meets the requirements of Rule 64B1-4.001, F.A.C. Official transcripts from the institutions at which the requirements were completed shall be provided with the application. Except for applicants who demonstrate satisfaction of and eligibility under the program requirements in subsection 64B1-4.001(1), F.A.C., each applicant must establish completion of 60 college credits from an accredited postsecondary institution by submitting official transcripts from the institution(s) at which the requirements were completed. The transcript must include grades, and academic credit hours awarded or the number of hours of study completed.

(3) 60 college credit hours shall mean 60 academic credit hours. An accredited postsecondary institution is an institution accredited by the U.S. Department of Education or a regional accrediting body recognized by the U.S. Department of Education.

Rulemaking Authority 457.104 FS. Law Implemented 457.105 FS. History—New 2-18-98, Amended 10-11-04, 5-25-09.

64B1-4.0012 English Proficiency Requirement for Licensure.

(1) Applicants who have passed the national written examination in any language other than English shall demonstrate their ability to communicate in English by earning a passing score on either the Test of English as a Foreign Language examination (hereinafter TOEFL) or the Test of Spoken English examination (hereinafter TSE), as administered by the Educational Testing Services. As used throughout this section, a passing score for the TOEFL is defined as a scaled score of 500 or greater for paper; 173 or greater for computer; or 61 or greater for internet. A passing score for the TSE is defined as a scaled score of 50 or greater. It shall be the individual responsibility of such applicants to apply for and schedule either the TOEFL examination or the TSE examination, and to obtain their official score report from the testing services prior to applying for licensure. These applicants shall submit a copy of their official score report with their application.

(2) Applicants applying for licensure by examination who indicate on their application that they wish to take the national written examination for licensure in Florida in any language other than English shall also at the time of their application submit a copy of their official score report indicating that they have passed either the TOEFL examination or the TSE.

Rulemaking Authority 457.104 FS. Law Implemented 457.105(2)(a) FS. History—New 8-28-01, Amended 5-31-04, 5-25-09.

64B1-4.0015 Supervised Clinical Experience Defined.

For the purposes of Rule 64B1-4.001, F.A.C., the Board defines "supervised clinical experience" as follows:

(1) "Supervised clinical experience" means a planned and supervised instruction of students

during which students function in a hands-on capacity with acupuncture patients.

(2) During the first 200 hours of supervised clinical experience, the student must observe the supervisor/instructor diagnose and treat patients.

(3) During the second 200 hours of supervised clinical experience, the student must be under the direct supervision of the supervisor/instructor. Direct supervision shall mean that the supervisor/instructor is present in the same room as the student for all hands-on experience.

(4) During the remaining hours of supervised clinical experience, the student must be under the direct or indirect supervision of the supervisor/instructor. Indirect supervision shall mean that the supervisor/instructor is physically present on the premises, so that the supervisor/instructor is immediately available to the student when needed.

(5) During the remaining hours of supervised clinical experience, the student must diagnose and treat a minimum of 30 different patients.

(6) For applicants who enroll on or after July 31, 2001, during supervised clinical experience, the student must observe and use the findings of laboratory test and imaging findings in the course of patient treatment.

Specific Authority 457.104, 457.105 FS. Law Implemented 457.105 FS. History—New 11-21-95, Amended 2-19-96, Formerly 59M-4.0015, Amended 8-3-00, 2-26-01.

64B1-4.004 Herbal Therapies.

Herbal therapy means the use, prescription, recommendation, and administration of herbal therapy/phytotherapy which consists of plant, animal, and/or mineral substances and shall include all homeopathic preparations to promote, maintain and restore health and to prevent disease.

Specific Authority 457.102(1), 457.104 FS. Law Implemented 457.102(1) FS. History—New 12-24-00.

64B1-4.005 Oriental Massage.

Oriental massage includes traditional Chinese and modern oriental medical techniques which shall include: manual and mechanical stimulation of points, meridians, channels, collaterals, and ah-shi points; all forms of oriental bodywork including acupressure, amma, anmo, guasha, hara, niusha, reiki, reflexology, shiatsu, tuina, traction and counter traction, vibration, and other neuro-muscular, physical and physio-therapeutic techniques used in acupuncture and oriental medicine for the promotion, maintenance, and restoration of health and the prevention of disease.

Specific Authority 457.104 FS., Section 62, Chapter 2000-318, Laws of Florida. Law Implemented Section 62, Chapter 2000-318, Laws of Florida. History—New 12-24-00.

64B1-4.006 Qi Gong.

Qi Gong means the Chinese system of energy cultivation which uses posture, movement, exercises, breathing, meditation, visualization, and conscious intent to move, cleanse, or purify Qi to promote, maintain and restore health and to prevent disease.

Specific Authority 457.104 FS., Section 62, Chapter 2000-318, Laws of Florida. Law Implemented Section 62, Chapter 2000-318, Laws of Florida. History—New 12-24-00.

64B1-4.007 Electroacupuncture.

Electroacupuncture means the stimulation of points, meridians, channels, collaterals, and ah-shi points with or without needles with: the administration and/or prescription of percutaneous and transcutaneous electrical nerve and tissue stimulation; and/or the use of microcurrent; low volt; high volt; interferential current; galvanic current; and acupunctoscope.

Specific Authority 457.104 FS., Section 62, Chapter 2000-318, Laws of Florida. Law Implemented Section 62, Chapter 2000-318, Laws of Florida. History—New 12-24-00.

64B1-4.008 Adjunctive Therapies.

Adjunctive therapies shall include the stimulation of acupuncture points, ah-shi points, auricular points, channels, collaterals, meridians, and microsystems with the use of: air; aromatherapy; color; cryotherapy; electric moxibustion; homeopathy; hyperthermia; ion pumping cords; iridology; kirlian photography; laser acupuncture; lifestyle counseling; magnet therapy; paraffin; photonic stimulation; recommendation of breathing techniques; therapeutic exercises and daily activities; sound including sonopuncture; traction; water; thermal therapy; and other adjunctive therapies and diagnostic techniques of traditional Chinese medical concepts and modern oriental medical techniques as set forth in Rule 64B1-4.010, F.A.C.

Specific Authority 457.104 FS., Section 62, Chapter 2000-318, Laws of Florida. Law Implemented Section 62, Chapter 2000-318, Laws of Florida. History—New 12-24-00.

64B1-4.009 Dietary Guidelines.

Dietary guidelines shall include nutritional counseling as used in acupuncture and oriental medicine and the administration, prescription, and/or recommendation of nutritional supplements to promote, maintain, and restore health and to prevent disease.

Specific Authority 457.104 FS., Section 62, Chapter 2000-318, Laws of Florida. Law Implemented Section 62, Chapter 2000-318, Laws of Florida. History—New 12-24-00.

64B1-4.010 Traditional Chinese Medical Concepts, Modern Oriental Medical Techniques.

Traditional Chinese medical concepts and modern oriental medical techniques shall include acupuncture diagnosis and treatment to prevent or correct malady, illness, injury, pain, addictions, other conditions, disorders, and dysfunction of the human body; to harmonize the flow of Qi or vital force; to balance the energy and functions of a patient; and to promote, maintain, and restore health; for pain management and palliative care; for acupuncture anesthesia; and to prevent disease by the use or administration of: stimulation to acupuncture points, ah-shi points, auricular points, channels, collaterals, meridians, and microsystems which shall include the use of: akabane; allergy elimination techniques; breathing; cold; color; correspondence; cupping; dietary guidelines; electricity; electroacupuncture; electrodermal screening (EDS); exercise; eight principles; five element; four levels; hara; heat; herbal therapy consisting of plant, animal, and/or mineral substances; infrared and other forms of light; inquiring of history; jing-luo; listening; moxibustion; needles; NAET; observation; oriental massage - manual and mechanical methods; palpation; physiognomy; point micro-bleeding therapy; pulses; qi; xue and jin-ye; ryodoraku; san-jiao; six stages; smelling; tongue; tai qi; qi gong; wulun-baguo; yin-yang; zang-fu; Ayurvedic, Chinese, Japanese, Korean, Manchurian, Mongolian, Tibetan, Uighurian, Vietnamese, and other east Asian acupuncture and oriental medical concepts and treatment techniques; French acupuncture; German acupuncture including electroacupuncture and diagnosis; and, the use of laboratory test and imaging findings.

Specific Authority 457.102, 457.104 FS. Law Implemented 457.102 FS. History—New 11-6-01.

64B1-4.011 Diagnostic Techniques.

Diagnostic techniques which assist in acupuncture diagnosis, corroboration and monitoring of an acupuncture treatment plan or in making a determination to refer a patient to other health care providers shall include: traditional Chinese medical concepts and modern oriental medical techniques, recommendation of home diagnostic screening; physical examination; use of laboratory test findings; use of imaging films, reports, or test findings; office screening of hair, saliva and urine; muscle response testing; palpation; reflex; range of motion; sensory testing; thermography; trigger points; vital signs; first-aid; hygiene; and sanitation.

Specific Authority 457.102(1), 457.104 FS. Law Implemented 457.102(1) FS. History—New 11-6-01.

64B1-4.012 Acupoint Injection Therapies.

Effective March 1, 2002, adjunctive therapies shall include acupoint injection therapy which shall mean the injection of herbs, homeopathics, and other nutritional supplements in the form of sterile substances into acupuncture points by means of hypodermic needles but not intravenous therapy to promote, maintain, and restore health; for pain management and palliative care; for acupuncture anesthesia; and to prevent disease.

Specific Authority 457.102, 457.104 FS. Law Implemented 457.102 FS. History—New 2-18-01.

Rule No	Rule Title	Effective Date
<u>64B1-6.002</u>	Definitions	5/31/2004
<u>64B1-6.005</u>	Standards for Approval of Continuing Education Credit	1/7/2003
<u>64B1-6.006</u>	Requirements for the Provider	7/26/2004
<u>64B1-6.008</u>	Process for Program Approval	2/7/2006
<u>64B1-6.009</u>	Teaching Time for Continuing Education Credit	2/24/1988
<u>64B1-6.010</u>	Continuing Education for Reactivation, Reinstatement or Renewal	2/25/1990

64B1-6.002 Definitions.

- (1) "Approved" means acceptable to the Florida Board of Acupuncture.
- (2) "Board" means Florida Board of Acupuncture.
- (3) "Committee" means Committee on Continuing Education of the Board.
- (4) "Contact Person" means one who is responsible for filing provider approval applications and insures compliance with these rules, maintains complete rosters of participants, and is knowledgeable about the provider's program(s).
- (5) "Correspondence Program" means an approved program offered by mail with a defined course of study to be completed by the participant for which an evaluation of performance is made and a rating of satisfactory or unsatisfactory completion of the course is given by the provider.
- (6) "Credit Hour" means a minimum of 50 minutes and a maximum of 60 minutes of class time. One-half (1/2) credit hour means a minimum of 25 minutes and a maximum of 30 minutes of class time.
- (7) "Department" means the Department of Health.
- (8) "Participant" means an acupuncturist who attends a program presented by a provider in order to achieve the stated objectives of the program.
- (9) "Program" means a planned educational experience dealing with a specific content based on the stated objectives.
- (10) "Provider" means the individual, organization or institution conducting the continuing education program.

Specific Authority 456.013, 456.025, 456.033, 457.104, 457.107(3) FS. Law Implemented 456.013, 456.025, 456.033, 457.107(3) FS. History– New 2-24-88, Formerly 21AA-6.002, 61F1-6.002, Amended 1-16-97, Formerly 59M-6.002, Amended 5-31-04.

64B1-6.005 Standards for Approval of Continuing Education Credit.

- (1) A continuing education program must contribute to the advancement, extension or enhancement of the licensee's skills and knowledge related to the practice of acupuncture and oriental medicine. Programs should concern the history and theory of acupuncture, acupuncture diagnosis and treatment techniques, techniques of adjunctive therapies, acupuncturist-patient communication and professional ethics. All continuing education courses are subject to evaluation and approval by the Board to determine that the continuing education course meets the criteria established by the Board which has final determination as to the number of hours of acceptable credit that will be awarded for each program.
- (2) Each program offered for continuing education credit must be presented or taught by a person who at a minimum holds a bachelor's degree from an accredited college or university or

a post-secondary education institution licensed by the State of Florida, with a major in the subject matter to be presented; or has graduated from a school of acupuncture, or has completed a tutorial program which has a curriculum equivalent to the requirements in this state and was approved by a state licensing authority, a nationally recognized acupuncture/oriental medicine association or a substantially equivalent accrediting body, and has completed three (3) years of professional experience in the licensed practice of acupuncture; and has a minimum of two (2) years teaching experience in the subject matter to be presented, or has taught the same program for which approval is sought a minimum of three (3) times in the past two (2) years before a professional convention, professional group or at any acupuncture school, or has completed specialized training in the subject matter of the program and has a minimum of two (2) years of practical experience in the subject.

(3) In order to meet the continuing education requirements, the continuing education program submitted by the licensee must meet the criteria established by the Board.

(4) No credit will be given for programs which are primarily devoted to administrative or business management aspects of acupuncture practice.

(5) To receive credit for programs on HIV/AIDS, the program must be, at a minimum, two (2) hours in length and must address the areas mandated in Section 456.033, F.S. The Board accepts HIV/AIDS programs presented or conducted by the Department of Health and programs approved by other professional regulatory boards for the health professions.

(6) Continuing education programs related to laboratory test or imaging findings shall be designed to provide course content on the clinical relevance of laboratory and diagnostic tests and procedures as well as biomedical physical examination findings and to advance, extend or enhance the licensee's skills and knowledge related to the safe and beneficial use of laboratory test and imaging findings.

Specific Authority 456.013(9), 456.033, 457.104, 457.107(3) FS. Law Implemented 456.013(9), 456.033, 457.107(3) FS. History—New 2-24-88, Amended 8-6-89, Formerly 21AA-6.005, 61F1-6.005, Amended 3-18-97, Formerly 59M-6.005, Amended 6-1-99, 1-7-03.

64B1-6.006 Requirements for the Provider.

Each provider shall:

(1) File all information necessary for provider registration on Form DOH/AP007, Continuing Education Provider Registration, which is hereby incorporated by reference and will be effective 7-26-04, copies of which may be obtained from the Board office, and pay the appropriate provider registration fee. The provider registration fee is non-refundable and shall be paid within each biennium upon the earliest of the following events that occurs during the biennium:

(a) When the provider submits a new program or programs for Board approval; or

(b) When the provider provides a continuing education program to Chapter 457 F.S., licensees for licensure renewal credit.

(2) Insure that the continuing education program(s) presented by the provider complies with these rules.

(3) Maintain a complete, alphabetized, legible roster of participants for a period of 3 years following each program presentation.

(4) Maintain a "sign-in" sheet and a "sign-out" sheet with the signatures of participants.

(5) Provide each participant with a certificate certifying that the participant has successfully completed the program. The certificate shall not be issued until completion of the program and shall contain the provider's name, title of program, date of program, location, and number of credit hours.

(6) Notify the Board of any significant changes relative to the maintenance of standards as set forth in these rules.

(7) Ensure that no person receives credit for the same program more than once.

(8) Notify the Board of any change in the presenters or instructors of any approved program, and demonstrate the new instructor meets the criteria set forth in subsection 64B1-6.005(2), F.A.C.

(9) Designate a contact person who assumes responsibility for each program, and who is knowledgeable about each program. The contact person shall notify the Board of any significant changes in programs or a lapse in the maintenance of standards.

(10) In a correspondence continuing education program, each provider is responsible for obtaining from each certificateholder a signed statement which states that the participant did in fact read the material, performed the exercises and took the examination personally.

(11) There shall be adequate personnel to assist with administrative matters and personnel with competencies outside content areas in cases when the method of delivery requires technical or other special expertise.

(12) Providers shall maintain records of individual offerings for inspection by the Department; records shall include subject matter, objectives, faculty qualifications, evaluation mechanisms, credit hours and rosters of participants.

Specific Authority 456.013, 457.104, 457.107(3) FS. Law Implemented 456.013, 457.107(3) FS. History—New 2-24-88, Amended 7-25-88, Formerly 21AA-6.006, 61F1-6.006, Amended 3-18-97, Formerly 59M-6.006, Amended 2-18-98, 7-26-04.

64B1-6.008 Process for Program Approval.

(1) In order to receive Board approval of one or more programs for which continuing education credit is awarded within a biennium to an acupuncture licensee a provider shall submit an application for approval Form DOH/AP006, Continuing Education Program Approval, which is hereby incorporated by reference and will be effective 7-26-04, copies of which may be obtained from the Board office shall be submitted to the Board Office for program approval.

(2) The following courses, that meet the criteria for approval under this section, are approved by the Board:

(a) Organized courses of study sponsored by a national or state acupuncture and/or oriental medicine organization that is registered with the Board.

(b) Organized courses of study sponsored by an accredited acupuncture and/or oriental medicine school that is registered with the Board.

(3) The Board retains the right and authority to audit and/or monitor programs given by any provider. The Board will reject individual programs offered by a provider if the provider has disseminated any false or misleading information in connection with the continuing education program, or if the program provider has failed to conform to and abide by the rules of the Board.

(4) If approved, the provider may identify the program as “approved by the Florida Board of Acupuncture for Purposes of Continuing Education Credit” in any flyer or other advertisement.

Specific Authority 456.013(7), (8), (9), 456.025, 457.104, 457.107(3) FS. Law Implemented 456.013(7), (8), (9), 456.025, 457.107(3) FS. History— New 2-24-88, Formerly 21AA-6.008, 61F1-6.008, Amended 1-16-97, Formerly 59M-6.008, Amended 2-18-98, 7-26-04, 2-7-06.

64B1-6.009 Teaching Time for Continuing Education Credit.

(1) Those persons who teach at programs approved for continuing education credit may claim 3 hours of continuing education credit for each hour of lecture, not to exceed nine hours of continuing education credit per biennium.

(2) No continuing education credit shall be granted to a school faculty member merely as credit for his regular teaching assignments.

Specific Authority 457.104, 457.107(3) FS. Law Implemented 457.107(3) FS. History—New 2-24-88, Formerly 21AA-6.009, 61F1-6.009, 59M-6.009.

64B1-6.010 Continuing Education for Reactivation, Reinstatement or Renewal.

No license shall be reactivated, reinstated or renewed after July 1, 1990 without the licensee submitting proof to the Board, verifying that he or she has successfully completed 2 hours of board approved coursework on Chapters 456 and 457, F.S., and Chapter 64B1, F.A.C. The Board shall approve coursework in accordance with the criteria established in Rules 64B1-6.007 and 64B1-6.008, F.A.C.

Specific Authority 456.013(9), 456.036, 457.104, 457.107 FS. Law Implemented 456.013(9), 456.036, 457.107 FS. History—New 2-25-90, Formerly 21AA-6.010, 61F1-6.010, 59M-6.010.

Rule No	Rule Title	Effective Date
<u>64B1-7.001</u>	Biennial Renewal of License	5/30/2007
<u>64B1-7.0015</u>	Continuing Education Requirement	5/11/2009
<u>64B1-7.002</u>	Requirements for Reactivation of an Inactive License	1/16/1997
<u>64B1-7.004</u>	Notice to the Agency of Mailing Address and Place of Practice of Licensee	4/25/2000

64B1-7.001 Biennial Renewal of License.

(1) During the license renewal period of each biennium, an application for renewal will be mailed to each licensee at the last address provided to the Board. Each licensee shall be required to return the application with the renewal fee required by Rule 64B1-2.001, F.A.C.

(2) The application for renewal constitutes certification by the licensee that the licensee meets all the eligibility requirements for renewal, including the continuing education requirements of Rule 64B1-7.0015, F.A.C. Each licensee certifies by first renewal, completion of the HIV/AIDS requirements of Section 456.033, F.S., and completion of course on prevention of medical errors. Each licensee certifies by subsequent renewal, completion of a two (2) hour course on the prevention of medical errors as described in Section 456.013(7), F.S., and a program on Chapters 456 and 457, F.S., and Chapter 64B1, F.A.C.

(3) The Department shall not renew the license of any licensee unless the Board has received and recorded confirmation that the licensee has completed a 3-hour course that complies with the requirements of Section 456.033, F.S., and a course on the prevention of medical errors for the initial renewal; and for subsequent renewals, the continuing education hours mandated for the prevention of medical errors; and a program on Chapters 456 and 457, F.S., and Chapter 64B1, F.A.C., as required under Rule 64B1-7.0015, F.A.C.

(4) Failure to receive notification during the renewal period does not relieve the licensee of the responsibility of meeting the continuing education requirement and renewing the license.

(5) Any licensee may elect at the time of biennial renewal to place the license into inactive status by filing with the Department a completed application for inactive status and the appropriate fee required by subsection 64B1-2.010(1), F.A.C.

(a) Inactive licenses must be renewed biennially including payment of the renewal fee set forth in subsection 64B1-2.001(2), F.A.C.

(b) An inactive licensee who elects to change to active status shall not be permitted to return to inactive status until the next biennial renewal period.

(6) The failure of any licensee to renew a license, whether active or inactive, before the license expires shall cause the license to become delinquent, and the licensee must apply for active or inactive status pursuant to Section 456.036(6), F.S., and remit the fees required by Rules 64B1-2.001, 64B1-2.0015 and 64B1-2.010, F.A.C.

Specific Authority 456.013, 456.036, 457.104, 457.107, 457.108 FS. Law Implemented 456.013, 456.033, 456.036, 457.107, 457.108 FS. History—New 5-24-87, Formerly 21AA-7.001, 61F1-7.001, Amended 10-25-95, 1-16-97, Formerly 59M-7.001, Amended 10-15-97, 4-25-00, 1-7-03, 5-30-07.

64B1-7.0015 Continuing Education Requirement.

(1) As a condition of the biennial renewal of a license, each licensee shall complete a minimum of 20 credit hours per biennium of continuing education that meets the requirements of Chapter 457, F.S. Effective March 1, 2002, as a condition of the biennial renewal of a license, each

licensee shall complete a minimum of 30 credit hours per biennium of continuing education that meets the requirements of Section 457.107, F.S. Pursuant to Section 456.033(2), F.S., each licensee shall submit confirmation of having completed a 3-hour HIV/AIDS course when submitting fees for the initial biennial renewal. Each biennium, the licensee shall complete a program awarding at least 5 hours of continuing education credit in Biomedical Sciences as set forth in Rule 64B1-6.005, F.A.C.. Each biennium, the licensee shall complete a program on Chapters 456 and 457, F.S., and Rule Chapter 64B1, F.A.C., consisting of at least 2 hours of study.

(2) As a condition of initial licensure or renewal of license, each licensee shall complete a 2-hour course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for the profession. The course shall be approved by the Board and include a study of root-cause analysis, error reduction and prevention, and patient safety.

(3) For the first renewal period after initial licensure, the licensee is exempt from the continuing education requirements of Rule 64B1-7.0015, F.A.C., except for the continuing education hours mandated for medical errors and the 3-hour HIV/AIDS course.

(4) Credit hours are not retroactive or cumulative. All credit hours must be earned within the biennium for which they are claimed.

(5) Continuing education credit up to a maximum of two hours will be awarded for each hour of attendance at a Board meeting at which another licensee is disciplined pursuant to Section 456.013(6), F.S. Only one credit hour will be granted for each hour of attendance.

(6) The Board and/or the Department will audit a number of licensees who are selected at random as is necessary to assure that the continuing education requirements are met. Each licensee shall retain such receipts, vouchers or certificates as may be necessary to document completion of the continuing education requirements for a period of 2 years following the biennium for which they are applied. Failure to document compliance with the continuing education requirements, or furnishing false or misleading information regarding compliance shall be grounds for disciplinary action under Rule 64B1-9.001, F.A.C.

Rulemaking Authority 456.013, 457.104, 457.107, 457.108, 457.1085 FS. Law Implemented 456.013, 456.033, 457.107, 457.108, 457.1085, 457.109 FS. History—New 3-18-97, Formerly 59M-7.0015, Amended 4-25-00, 4-3-01, 11-24-02, 5-18-04, 5-30-07, 5-11-09.

64B1-7.002 Requirements for Reactivation of an Inactive License.

(1) An inactive license shall be reactivated upon payment of the reactivation fee set forth in subsection 64B1-2.010(3), F.A.C., and demonstration that the licensee completed the continuing education requirements as set forth in Rule 64B1-7.0015, F.A.C., for each biennium in which the license was inactive.

(2) However, any licensee whose license has been inactive for more than two consecutive biennial licensure cycles and who has not practiced for two out of the previous four years in another jurisdiction shall be required to appear before the Board and establish the ability to practice with the care and skill sufficient to protect the health, safety, and welfare of the public. At the time of such appearance, the licensee must:

(a) Show compliance with subsection (1) above;

(b) Account for any activities related to the practice of acupuncture in this or any other jurisdiction during the period that the license was inactive and establish an absence of malpractice or disciplinary actions pending in any jurisdiction;

(c) Prove compliance with the financial responsibility requirements of Section 456.048, F.S., and Rule 64B1-12.001, F.A.C.;

(d) Prove compliance with Section 456.033, F.S., and Rule 64B1-7.0015, F.A.C.

(3) The Department shall not reactivate the certificate of any certificate holder who has:

(a) Committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a certificate holder pursuant to Section 457.109, F.S.

(b) Failed to comply with the financial responsibility requirements of Section 456.048, F.S., and Rule 64B1-12.001, F.A.C.

(c) Failed to comply with the provisions of Section 456.033, F.S., and Rule 64B1-7.0015, F.A.C.

Specific Authority 456.033, 456.036, 457.104, 457.107, 457.108 FS. Law Implemented 456.033, 456.036, 457.107, 457.108 FS. History—New 5-24-87, Formerly 21AA-7.002, 61F1-7.002, Amended 10-25-95, 1-16-97, Formerly 59M-7.002.

64B1-7.004 Notice to the Agency of Mailing Address and Place of Practice of Licensee.

(1) It shall be the duty of each licensee to provide written notification to the Department of the licensee's current mailing address and place of practice. For purposes of this rule, "place of practice" shall mean the address of the primary physical location where the certificateholder practices acupuncture.

(2) Any time that the current mailing address or place of practice of any licensee changes, written notification of the change shall be provided to the Department within 10 days of the change. Written notice should be sent to the following address: Pamela King, Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin 06, Tallahassee, Florida 32399-3256

Specific Authority 456.035 FS. Law Implemented 456.035 FS. History—New 4-25-00.

Rule No	Rule Title	Effective Date
<u>64B1-8.001</u>	Definitions	2/26/2001
<u>64B1-8.002</u>	Monitoring Sterilization and Infection Control	2/26/2001
<u>64B1-8.003</u>	Office Hygiene	5/6/1987
<u>64B1-8.004</u>	Disposal of Biohazardous Waste	6/8/2000
<u>64B1-8.005</u>	Infection Control Training	10/25/1995
<u>64B1-8.006</u>	Laboratory Test and Imaging Results Education	2/18/2001

64B1-8.001 Definitions.

(1) Needles: solid filiform instruments used in the practice of acupuncture. This includes, but is not limited to, dermal needles, plum blossom needles, press needles, prismatic needles and disposable lancets.

(2) Sterilization: the use of procedures which destroy all microbial life, including viruses, thereby creating sterility. In acupuncture this technique is used for all instruments which pierce the skin including, but not limited to, filiform needles and plum-blossom needles or those instruments that may come into contact with instruments that pierce the skin including, but not limited to, storage strays, forceps and guide tubes for needles.

Specific Authority 457.104, 457.1085 FS. Law Implemented 457.1085 FS. History—New 5-6-87, Amended 12-23-87, 6-7-89, Formerly 21AA-8.001, 61F1-8.001, 59M-8.001, Amended 2-26-01.

64B1-8.002 Monitoring Sterilization and Infection Control.

(1) Sterilization of acupuncture needles and other equipment shall be accomplished by proper autoclaving according to the instructions of the manufacturer of the autoclave.

(2)(a) A sterilization indicator shall be used with each autoclaving to monitor the sterilization procedure.

(b) Strips must indicate both exposure to steam and 250° F.

(3) Non-sterilized acupuncture needles shall be sterilized prior to use:

(4) All sterilized items must be stored and handled in a manner which maintains sterility.

(5) Each acupuncture office utilizing autoclave sterilization techniques shall post the sterilization procedures and shall maintain documentation of all autoclave service.

(6) It shall be the responsibility of the Acupuncturist to insure that personnel responsible for performing sterilization procedures pursuant to this rule shall be adequately trained.

(7) The procedures and equipment used for sterilization must have their efficacy tested periodically. Adequacy of steam under pressure (e.g., autoclave) must have its efficacy verified by appropriate biological monitoring at least once every 40 hours (2400 minutes) of use or at least once every thirty days, whichever comes first.

Specific Authority 457.104, 457.1085 FS. Law Implemented 457.1085 FS. History—New 5-6-87, Amended 12-23-87, 6-7-89, 11-13-89, Formerly 21AA-8.002, 61F1-8.002, Amended 2-22-96, Formerly 59M-8.002, Amended 2-26-01.

64B1-8.003 Office Hygiene.

An acupuncture office shall be maintained in a safe and sanitary manner.

Specific Authority 457.104, 457.1085 FS. Law Implemented 457.1085 FS. History—New 5-6-87, Formerly 21AA-8.003, 61F1-8.003, 59M-8.003

64B1-8.004 Disposal of Biohazardous Waste.

Biohazardous waste must be managed pursuant to the provisions of Chapter 64E-16, Florida Administrative Code, effective June 3, 1997.

Specific Authority 457.104, 457.1085 FS. Law Implemented 457.1085, 381.80 FS. History—New 5-6-87, Amended 12-23-87, 5-30-91, Formerly 21AA-8.004, 61F1-8.004, 59M-8.004, Amended 6-8-00.

64B1-8.005 Infection Control Training.

Prior to commencement of clinical training, every approved course of study and tutorial program shall provide training in clean needle technique and universal precautions for preventing the transmission of bloodborn pathogens and other infectious diseases, including, for example, HIV/AIDS, hepatitis, staphylococcus, and tuberculosis.

Specific Authority 457.104, 457.105, 457.1085 FS. Law Implemented 457.1085 FS. History—New 10-25-95, Formerly 59M-8.005.

64B1-8.006 Laboratory Test and Imaging Results Education.

During didactic and clinical training, and as part of continuing education, the Board of Acupuncture requires courses of study as to the safe and beneficial use of laboratory tests and imaging findings in the practice of acupuncture and oriental medicine.

Specific Authority 457.102, 457.104, 457.105, 457.107, 457.1085 FS. Law Implemented 457.102, 457.105, 457.107, 457.1085 FS. History—New 2-18-01

Rule No	Rule Title	Effective Date
<u>64B1-9.001</u>	Disciplinary Guidelines	1/26/2006
<u>64B1-9.002</u>	Citations	5/24/2004
<u>64B1-9.003</u>	Notice of Noncompliance	5/24/2004
<u>64B1-9.004</u>	Probable Cause Determination	8/2/2005
<u>64B1-9.006</u>	Mediation	5/31/2004
<u>64B1-9.007</u>	Advertising	9/27/2006

64B1-9.001 Disciplinary Guidelines.

(1) When the Board finds any person has committed any of the acts set forth in Section 456.072(1) or 457.109(1), F.S., it shall issue a final order imposing appropriate penalties as recommended in the following disciplinary guidelines.

(a) Attempting to obtain, obtaining, or renewing a license to practice acupuncture by bribery, or fraudulent misrepresentations, or through an error of the Department or Board. The usual recommended penalty shall be revocation of the license to practice acupuncture.

(b) Having a license to practice acupuncture revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country. The usual recommended penalty shall be a penalty generally concurrent with that of the other jurisdiction with the addition of appropriate safeguards as determined by the Board.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, of a crime in any jurisdiction which relates to the practice of acupuncture or to the ability to practice acupuncture. The usual recommended penalty shall be suspension of the license until such time as the licensee can, to the Board's satisfaction, demonstrate rehabilitation.

(d) False, deceptive, or misleading advertising or advertising which claims that acupuncture is useful in curing any disease. The usual recommended penalty shall be a reprimand and an administrative fine of up to \$500.00.

(e) Advertising, practicing, or attempting to practice under a name other than one's own. The usual recommended penalty shall be a reprimand and an administrative fine of up to \$500.00.

(f) Failing to report to the Department any person who the licensee knows is in violation of this chapter or of the rules of the Department or Board. The usual recommended penalty shall be a reprimand and an administrative fine of up to \$500.00.

(g) Aiding, assisting, procuring, employing, or advising any unlicensed person to practice acupuncture contrary to Chapter 457 or 456, F.S., or to a rule of the Department or Board. The usual recommended penalty shall be a six (6) month suspension immediately followed by a six (6) month probation with such terms and conditions as set forth by the Board.

(h) Failing to perform any statutory or legal obligation placed upon a licensed acupuncturist. The usual recommended penalty shall be a reprimand and an administrative fine of up to \$500.00.

(i) Making or filing a report, signed in the capacity of a licensed acupuncturist, which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. The usual recommended penalty shall be a reprimand and an administrative fine of up to \$500.00.

(j) Exercising influence within a patient-acupuncturist relationship for purposes of engaging a patient in sexual activity, or engaging or attempting to engage a patient in verbal or physical

sexual activity. The usual recommended penalty shall be an administrative fine of up to \$1000.00 and a six (6) month suspension immediately followed by a two (2) year probation with such terms and conditions as set forth by the Board.

(k) Making misleading, deceptive, untrue, or fraudulent representations in or related to the practice of acupuncture or employing a trick or scheme in the practice of acupuncture when such scheme or trick fails to conform to the generally prevailing standards of treatment in the community. The usual recommended penalty shall be a reprimand and an administrative fine of up to \$500.00.

(l) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. The usual recommended penalty shall be reprimand and an administrative fine of up to \$500.00.

(m) Failing to keep written medical records which are consistent with the practitioner's style of acupuncture justifying the course of treatment of the patient. The usual recommended penalty shall be an administrative fine of up to \$800.00 and a six (6) month probation with such terms and conditions as set forth by the Board.

(n) Exercising influence on the patient to exploit the patient for the financial gain of the licensee or of a third party. The usual recommended penalty shall be an administrative fine of up to \$800.00 and a six (6) month probation with such terms and conditions as set forth by the Board.

(o) Being unable to practice acupuncture with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. The usual recommended penalty shall be suspension of the license to practice acupuncture until such time as the licensee can, to the Board's satisfaction, demonstrate rehabilitation.

(p) Gross or repeated malpractice or the failure to practice acupuncture with that level of care, skill, and treatment which is recognized by a reasonably prudent, similar acupuncturist as being acceptable under similar conditions and circumstances. The usual recommended penalty shall be a reprimand and an administrative fine of up to \$800.00.

(q) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform. The usual recommended penalty shall be suspension or revocation.

(r) Delegating or contracting for professional responsibilities by a person when the licensee delegating or contracting for such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them. The usual recommended penalty shall be an administrative fine of up to \$500.00 and a six (6) month suspension immediately followed by a six (6) month probation with such terms and conditions as set forth by the Board.

(s) Violating any provision of Chapter 457 or 456, F.S., a rule of the Board or Department, or a lawful order of the Board previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department. The usual recommended penalty shall be an administrative fine of up to \$1000.00 and a six (6) month probation with such terms and conditions as set forth by the Board.

(t) Conspiring with another to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services. The usual recommended penalty shall be an administrative fine of up to \$500.00 and a one year probation with such terms and conditions as set forth by the Board.

(u) Fraud or deceit or gross negligence, incompetence, or misconduct in the operation of a course of study. The usual recommended penalty shall be an administrative fine of up to \$1000.00 and a two year prohibition against the licensee's operation of courses of study.

(v) Failing to comply with state, county, or municipal regulations or reporting requirements,

relating to public health and the control of contagious and infectious diseases. The usual recommended penalty shall be an administrative fine of up to \$1000.00 and a one year probation with such terms and conditions as set forth by the Board.

(w) Failing to comply with any rule of the Board relating to health and safety, including, but not limited to, the sterilization of needles and equipment and the disposal of potentially infectious materials. The usual recommended penalty shall be an administrative fine of up to \$1000.00 and a one year probation with terms and conditions as set forth by the Board.

(x) Failing to comply with continuing education requirements, including requirements for HIV/AIDS education. The usual recommended penalty shall be an administrative fine of up to \$500.00 and making up all uncompleted continuing education requirements.

(y) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee. The usual recommended penalty shall be an administrative fine of up to \$1000.00.

(z) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding. The usual recommended penalty shall be an administrative fine of up to \$500.00 and a reprimand.

(aa) Failing to report to the Board in writing with 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. The usual recommended penalty shall be an administrative fine of up to \$500.00.

(bb) Using information about people involved in a motor vehicle accident which has been derived from accident reports made by law enforcement officers or persons involved in accidents pursuant to Section 316.066, F.S., or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of solicitation of the people involved in such accidents. The usual recommended penalty shall include from a fine of up to \$500.00 to and including suspension of the licensee's license to practice acupuncture.

(cc) Practicing acupuncture injection therapy without first providing notice to the Board of intent to practice acupuncture injection therapy and proof of successful completion of the required course of study. For the purpose of this rule the required course of study for the practice of acupuncture injection therapy shall not be a home study course and the required course shall at a minimum require 60 hours of training in the following areas:

1. History and development of acupuncture injection therapy;
2. Differential diagnosis;
3. Definitions, concepts, and pathophysiology;
4. The nature, function, channels entered, and contraindications of herbal, homeopathic, and nutritional injectables;
5. Diseases amenable to treatment with acupuncture injection therapy and the injectables appropriate to treat them;
6. Identification of appropriate points for treatment, including palpatory diagnosis;
7. A review of anatomy and referral zones;
8. Universal precautions including management of blood borne pathogens and biohazardous waste;
9. Procedures for injections, including preparing the injectables, contraindications and precautions;
10. 10 hours of clinical practice on a patient or patients; and
11. Administration techniques and equipment needed. The usual recommended penalty shall be revocation and a fine of \$1,000.00.

(2) Based upon consideration of the following factors, the Board may impose disciplinary action other than those penalties recommended above:

- (a) The danger to the public;
- (b) The number of repetitions of offenses, other than an adjudicated offense for which the licensee is presently being penalized;
- (c) The length of time since date of violation;
- (d) The number of complaints filed against the licensee;
- (e) The length of time the licensee has practiced acupuncture;
- (f) The actual damage, physical or otherwise, to a patient;
- (g) The deterrent effect of the penalty imposed;
- (h) The effect of the penalty upon the licensee's livelihood;
- (i) Any efforts for rehabilitation;
- (j) The actual knowledge of the licensee pertaining to the violation;
- (k) Attempts by the licensee to correct or stop a violation or refusal of a licensee to correct or stop a violation;
- (l) Any action relating to discipline or denial of a certificate or license in another state including, findings of guilt or innocence, standards applied, penalties imposed and penalties served;
- (m) Any other mitigating circumstances.

(3) Penalties imposed by the Board pursuant to subsection 64B1-9.001(1), F.A.C., may be imposed in combination or individually, but may not exceed the limitations enumerated below:

- (a) Refusal to certify to the Agency an application for licensure.
- (b) Revocation or suspension of a license.
- (c) Restriction of practice.
- (d) Imposition of an administrative fine not to exceed \$1000.00 for each count or separate offense.
- (e) Issuance of a reprimand.
- (f) Placement of the acupuncturist on probation for a period of time and subject to such conditions as the Board may specify.

(4) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses is descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included. For applicants, any and all offenses listed herein are sufficient for refusal to certify an application for licensure. In addition to the penalty imposed, the Board shall recover the costs of investigation and prosecution of the case. Additionally, if the Board makes a finding of pecuniary benefit or self-gain related to the violation, then the Board shall require refunds of fees billed and collected from the patient or a third party on behalf of the patient.

- (a) Violating Section 456.072(1)(gg) F.S., by failing to comply with, failing to successfully complete, or being terminated from an impaired practitioner treatment program.
- (b) First Offense: Suspension until compliant up to Suspension until compliant with, followed by up to five years probation with conditions.
- (c) Second or Subsequent Offense: Up to \$2,000.00 fine, Suspension until compliant followed by up to five years probation with conditions, or revocation.

(5) The provisions of subsections (1) through (4) above shall not be construed as to prohibit civil action or criminal prosecution as provided in Section 457.116 or 456.072, F.S., and the provision of subsections (1) through (4) above shall not be construed so as to limit the ability of the Board to enter into binding stipulations with accused parties as per Section 120.57(4), F.S.

Specific Authority 456.079(1), 457.104 FS. Law Implemented 456.072, 456.079, 457.109 FS. History—New 12-8-86, Amended 8-6-89, Formerly 21AA-9.001, 61F1-9.001, Amended 11-21-95, Formerly 59M-9.001, Amended 8-3-00, 5-20-02, 5-24-04, 1-26-06.

64B1-9.002 Citations.

(1) Definitions. As used in this rule:

(a) "Citation" means an instrument which meets the requirements set forth in Section 456.077, F.S., and which is served upon a subject for the purpose of assessing a penalty in an amount established by this rule;

(b) "Subject" means the licensee, applicant, person, partnership, corporation, or other entity alleged to have committed a violation designated in this rule.

(2) In lieu of the disciplinary procedures contained in Section 456.073, F.S., the department is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject within six months after the filing of the complaint which is the basis for the citation.

(3) The Board hereby designates the following violations as citation violations which shall result in a penalty of \$500.00:

(a) Violation of Section 457.109(1)(d) or (e), F.S.;

(b) Violation of Rule 64B1-10.002, F.A.C.;

(c) Failure to renew license with proper continuing education credit.

Specific Authority 456.072, 456.077 FS. Law Implemented 456.072, 456.077 FS. History—New 1-26-92, Formerly 21AA-9.002, 61F1-9.002, 59M-9.002, Amended 5-24-04.

64B1-9.003 Notice of Noncompliance.

(1) Definitions.

(a) "Notice of noncompliance" is a notification by the department issued to a certificateholder as a first response to minor violations of Board rules, which is not accompanied by a fine or other disciplinary penalty.

(b) "Minor violation" refers to a violation of a Board rule that does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm.

(2) The Board designates the following as minor violations for which a notice of noncompliance may be issued for the first violation thereof:

(a) Failure to provide written notice of a licensee's current mailing address and place of practice in violation of Rule 64B1-6.100, F.A.C.

(b) Failure to complete required credit hours of approved continuing education during a license biennium required by Rule 64B1-6.003, F.A.C., on the condition that the licensee has completed 75% of the continuing education requirement, and the licensee completes the remaining 25% of the requirement within 120 days of the renewal date.

(c) Violation of subsections 64B1-5.007(5) through (7), F.A.C.

Specific Authority 120.695, 456.073(3) FS. Law Implemented 120.695, 456.073(3) FS. History—New 5-19-96, Formerly 59M-9.003, Amended 5-24-04.

64B1-9.004 Probable Cause Determination.

(1) The determination as to whether probable cause exists to believe that a violation of the provisions of Chapter 456 or 457, F.S., or of the rules promulgated thereunder has occurred, shall be made by a majority vote of a probable cause panel of the Board.

(2) The probable cause panel shall be composed of membership authorized under Section 456.073, F.S., and may include one former board member whose term of service shall not exceed one year, unless reappointed by the Board Chairperson.

(3) The probable cause panel shall be selected by the Chairperson of the Board.

(4) The probable cause panel shall meet at such times as called by the Board Chairperson or the Board Executive Director.

(5) The presiding officer of the panel shall be selected by the Board Chairperson.

Specific Authority 456.073(4) FS. Law Implemented 456.073(4) FS. History—New 10-15-97,

Amended 8-2-05.

64B1-9.006 Mediation.

(1) "Mediation" means a process whereby a mediator is appointed by the Department to encourage and facilitate resolution of a legally sufficient complaint. It is an informal and non-adversarial process with the objective of assisting the parties or the complainant and the subject of a complaint to reach a mutually acceptable agreement.

(2)(a) The Board finds that mediation is an acceptable method of dispute resolution for the following alleged violations:

(b) Failure of the licensee to timely respond to a continuing education audit.

Specific Authority 456.078 FS. Law Implemented 456.078 FS. History—New 5-31-04.

64B1-9.007 Advertising.

(1) Advertising by persons licensed or certified under Chapter 457, F.S., is permitted so long as the information disseminated is in no way false, deceptive, or misleading and so long as the information does not claim that acupuncture is useful in curing any disease. Any advertisement or advertising shall be deemed false, deceptive, or misleading if it:

(a) Contains a misrepresentation of facts; or

(b) Makes only a partial disclosure of relevant facts; or

(c) Creates false or unjustified expectations of beneficial assistance; or

(d) Contains any representations or claims, as to which the person making the claims does not intend to perform; or

(e) Contains any other representation, statement, or claim which misleads or deceives; or

(f) Fails to conspicuously identify the licensee by name in the advertisement.

(2) As used in the rules of this board, the terms "advertisement" and "advertising" shall mean any statements, oral or written, disseminated to or before the public or any portion thereof, with the intent of furthering the purpose, either directly or indirectly, of selling professional services, or offering to perform professional services, or inducing members of the public to enter into any obligation relating to such professional services.

(3) It shall not be considered false, deceptive, or misleading for any persons licensed or certified under Chapter 457, F.S., to use the following initials or terms:

(a) L.Ac.;

(b) R.Ac.;

(c) A.P.;

(d) D.O.M.;

(e) Licensed Acupuncturist;

(f) Registered Acupuncturist;

(g) Acupuncture Physician; and

(h) Doctor of Oriental Medicine.

(4) Any licensee who advertises through an agent or through a referral service shall be held responsible for the content of such advertising and shall ensure that the advertising complies with this rule and Chapter 457, F.S.

Specific Authority 456.072, 457.104, 457.109 FS. Law Implemented 456.072(1)(a), (m), 457.109(1)(d), (e), (k) FS. History—New 9-27-06.

Rule No	Rule Title	Effective Date
<u>64B1-10.001</u>	Content and Retention of Medical Records	2/26/2001
<u>64B1-10.002</u>	Medical Records of an Acupuncturist Who Dies, Terminates His Practice, or Relocates; Retention; Time Limitations	10/25/1995

64B1-10.001 Content and Retention of Medical Records.

(1) Acupuncturists are required to maintain written medical records justifying the course of treatment of each patient. These records must include for each patient at least the following:

- (a) Patient's Medical History;
- (b) Acupuncture Diagnostic Impressions;
- (c) Points Used and/or Treatment Procedures Administered at Each Visit;
- (d) Acupuncturists' Recommendations;
- (e) Patient Progress Notes;
- (f) Laboratory test results when appropriate and medically necessary; and
- (g) Imaging films, reports or test results when appropriate and medically necessary.

(2) All medical records must be maintained by the acupuncturist for a period of five (5) years from the date of the last entry to the record.

Specific Authority 457.104, 457.109(1)(m) FS. Law Implemented 457.109(1)(m) FS. History—New 5-24-87, Amended 12-21-87, Formerly 21AA-10.001, Amended 12-26-93, Formerly 61F1-10.001, 59M-10.001, Amended 2-26-01.

64B1-10.002 Medical Records of an Acupuncturist Who Dies, Terminates His Practice, or Relocates; Retention; Time Limitations.

(1) The executor, administrator, personal representative or survivor of a deceased acupuncturist licensed pursuant to Chapter 457, Florida Statutes, shall retain medical records in existence upon the death of the acupuncturist concerning any patient of the acupuncturist for at least a period of two (2) years from the date of the death of the acupuncturist.

(2) Within one (1) month from the date of death of the acupuncturist, the executor, administrator, personal representative or survivor of the deceased acupuncturist shall cause to be published in the newspaper of greatest general circulation in the county where the acupuncturist maintained his office, a notice indicating to the patients of the deceased acupuncturist that the acupuncturist's medical records are available to the patients or their duly constituted representative from a person at a certain location.

(3) At the conclusion of a 24 month period of time from the date of the acupuncturist's death, or thereafter, the executor, administrator, personal representative, or survivor shall cause to be published once during each week for four (4) consecutive weeks, in the newspaper of greatest general circulation in the county where the acupuncturist maintained his office, a notice indicating to the patients of the deceased acupuncturist that the acupuncturist's medical records will be disposed of or destroyed one (1) month or later from the last day of the fourth week of publication.

(4) An acupuncturist licensed pursuant to Chapter 457, Florida Statutes, who terminates his practice or relocates and is no longer available to his patients shall ensure that the medical records which pertain to his patients are retained for at least two (2) years following such termination of practice or relocation.

(5) An acupuncturist licensed pursuant to Chapter 457, Florida Statutes, who terminates his practice or relocates and is no longer available to his patients and who does not transfer his practice to another acupuncturist or physician shall provide written notice of such termination or relocation by U.S. Mail to all patients who have received treatment within the sixty (60) days

prior to the termination or relocation and who require active, ongoing treatment. The notice shall inform the patients that the acupuncturist's medical records are available to the patients or their duly constituted representative from a specific person at a certain location.

(6) In all other cases, at least sixty (60) days prior to the date of an acupuncturist's termination of practice or relocation, the acupuncturist shall cause to be published once during each week for four (4) consecutive weeks, in the newspaper of greatest general circulation in the county where the acupuncturist maintains his office, a notice indicating to the patients of such acupuncturist that the acupuncturist's medical records are available to the patients or their duly constituted representative from a specific person at a certain location.

(7) At the conclusion of a two (2) year period of time from the date of the acupuncturist's termination of practice or relocation, or thereafter, the acupuncturist shall cause to be published once during each week for four (4) consecutive weeks, in the newspaper of greatest general circulation in the county where the acupuncturist maintained his office, a notice indicating to the patients of the acupuncturist that the acupuncturist's medical records will be disposed of or destroyed one (1) month or later from the last day of the fourth week of publication.

Specific Authority 456.058 FS. Law Implemented 456.058 FS. History—New 10-17-89, Formerly 21AA-10.002, 61F1-10.002, Amended 10-25-95, Formerly 59M-10.002.

Rule No	Rule Title	Effective Date
64B1-12.001	Financial Responsibility	7/4/1994

64B1-12.001 Financial Responsibility.

As a prerequisite for licensure or license renewal every acupuncturist is required to maintain medical malpractice insurance or provide proof of financial responsibility as set forth herein:

(1) Obtaining and maintaining professional liability coverage in an amount not less than \$10,000 per claim, with a minimum annual aggregate of not less than \$30,000, from an authorized insurer as defined under Section 624.09, Florida Statutes, from a surplus lines insurer as defined under Section 626.914(2), Florida Statutes, from a risk retention group as defined under Section 627.942, Florida Statutes, from the Joint Underwriting Association established under Section 627.351(4), Florida Statutes, or through a plan of self-insurance as provided in Section 627.357, Florida Statutes.

(2) Obtaining and maintaining an unexpired, irrevocable letter of credit, established pursuant to Chapter 675, Florida Statutes, in an amount not less than \$10,000 per claim, with a minimum aggregate availability of credit of not less than \$30,000. The letter of credit shall be payable to the acupuncturist as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid by the acupuncturist or upon presentment of a settlement agreement signed by all parties to such agreement when such final judgment or settlement is a result of a claim arising out of the rendering of, or the failure to render, acupuncture services. Such letter of credit shall be nonassignable and nontransferable. Such letter of credit shall be issued by any bank or savings association organized and existing under the laws of the State of Florida or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state.

(3) Obtaining and maintaining a surety bond in an amount not less than \$10,000 per claim, with a minimum annual aggregate of not less than \$30,000 written by a company licensed to do business in this state and rated A+ by Best's.

(4) Upon application to the Board, the following licensees shall be exempted from meeting the requirements of this rule:

(a) Any acupuncturist who practices exclusively as an officer, employee or agent of the federal government or of the State of Florida or its agencies or subdivision. For purposes of this rule, an agent of the State of Florida, its agencies or its subdivisions is a person who is eligible for coverage under any self insurance or insurance program authorized by the provisions of Section 768.28(14), Florida Statutes, or who is a volunteer under Section 110.501(1), Florida Statutes.

(b) Any person whose license has become inactive under Chapter 457, Florida Statutes, and who is not practicing in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after October 1, 1993, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person licensed or certified under Chapter 457, Florida Statutes, who practices only in conjunction with his/her teaching duties at an accredited school. Such person may engage in the practice of acupuncture to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the school.

(d) Any person holding an active license under Chapter 457, Florida Statutes, who is not practicing in this state. If such person initiates or resumes practice in this state, he/she must

notify the Board of such activity.

(e) Any person who can demonstrate to the Board that he/she has no malpractice exposure in the State of Florida.

Specific Authority 456.048, 457.104 FS. Law Implemented 456.048 FS. History—New 12-27-93, Amended 7-4-94, Formerly 61F1-12.001, 59M-12.001.