

**REVISED PROPOSED REGULATION OF THE
STATE BOARD OF ORIENTAL MEDICINE**

LCB File No. R026-22

April 29, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-5, 7-10, 17, NRS 634A.070 and 634A.120; § 6, NRS 634A.070, 634A.090 and 634A.140; § 11, NRS 634A.070 and 634A.167; § 12, NRS 634A.070 and 634A.225; §§ 13 and 14, NRS 634A.070 and 634A.160; § 15, NRS 634A.070, 634A.110, 634A.160 and 634A.165; § 16, NRS 634A.070 and 634A.110.

A REGULATION relating to Oriental medicine; revising requirements for the proof of qualification of an applicant for licensure to practice Oriental medicine; revising provisions relating to the examinations of an applicant for a license to practice Oriental medicine; revising provisions relating to continuing education requirements; providing that certain courses approved by the National Certification Commission for Acupuncture and Oriental Medicine may be offered as courses for continuing education without approval from the Board; revising provisions relating to the renewal of a license to practice Oriental medicine; authorizing the payment of fees to the Board by credit card or debit card; eliminating the requirement that certain applicants for a license to practice Oriental medicine must pass certain English proficiency tests and demonstrate a reasonable proficiency in the English language during an oral interview at the practical examination; eliminating provisions relating to a licensee operating under a fictitious name; eliminating certain fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each applicant for a license to practice as a doctor of Oriental medicine to pass: (1) each examination required and administered by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization for certification in Oriental medicine; and (2) an examination approved by the State Board of Oriental Medicine that tests the applicant's knowledge and understanding of the laws and regulations of this State relating to health and safety in the practice of Oriental medicine. (NRS 634A.120) Existing regulations require that an applicant for a license to practice as a doctor of Oriental medicine must have passed the examinations administered by the Commission within

the 12 months preceding the date of application for licensure or be certified by the Commission or its successor organization. Existing regulations also: (1) require the Board to give the practical examination in June and December of each year; (2) set forth the subjects that may be included in the practical examination; (3) require an applicant to receive an overall score of at least 70 percent and 65 percent on each of its sections or subparts to pass the practical examination; and (4) provides that an applicant who failed only one section of the practical examination will be reexamined only with respect to the section that he or she failed. (NAC 634A.085, 634A.100, 634A.110) **Section 2** of this regulation defines the term “national examination” to mean each examination required and administered by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization for certification in Oriental medicine. **Section 3** of this regulation defines the term “state examination” to mean the examination approved by the Board that tests the applicant’s knowledge and understanding of the laws and regulations of this State relating to health and safety in the practice of Oriental medicine, and this term replaces the term “practical examination.” **Section 4** of this regulation makes a conforming change to indicate the proper placement of **sections 2 and 3** within the Nevada Administrative Code, and **sections 5, 7-10 and 15** of this regulation make conforming changes to reflect the changes in terminology. **Section 7** of this regulation eliminates the requirement that an applicant for licensure as a doctor of Oriental medicine must pass the examinations administered by the Commission within the 12 months preceding the date of the application for licensure or be certified by the Commission or its successor organization. **Section 9** of this regulation: (1) authorizes the Board to give additional state examinations at any time the Board may designate; (2) revises the list of subjects that may be included in the state examination; and (3) eliminates the requirement that an applicant must receive a score of at least 65 percent on each of the sections or subparts of the state examination. **Section 10** of this regulation eliminates the requirement that an applicant who failed only one section of the state examination will be reexamined only with respect to the section that he or she failed.

Existing law requires the Board to issue a license to practice as a doctor of Oriental medicine to an applicant who, among other requirements, has successfully completed a 4-year program of study, or its equivalent, in Oriental medicine at a school or college of Oriental medicine that is approved by the Board. (NRS 634A.090, 634A.140) Existing regulations set forth the requirements for the Board to approve a 4-year program of study, or its equivalent, in Oriental medicine, which include, among other requirements: (1) training or instruction in certain subjects; and (2) that a student graduate on or after November 25, 2002 having completed at least 3,000 hours of instruction, including not less than 2,500 didactic hours. (NAC 634A.080) **Section 6** of this regulation adds that a program of study that results in a combined bachelor’s and master’s degree in Oriental medicine is sufficient to satisfy the requirement that a student who graduates on or after November 25, 2002, must complete at least 3,000 hours of instruction, including not less than 2,500 didactic hours.

Existing law requires an applicant for the renewal of a license to practice as a doctor of Oriental medicine to complete certain requirements for continuing education. (NRS 634A.167) Existing regulations authorize a licensee who earns more than 10 hours of credit for continuing education in any calendar year to carry forward up to 10 hours of excess credit and apply such excess credit to the educational requirements for the next calendar year if the licensee indicates

in writing, at the time he or she submits the form for renewal of his or her license, that the licensee intends to carry forward such excess credit. (NAC 634A.135) **Section 11** of this regulation eliminates the requirement that a licensee indicate in writing at the time he or she submits the form for renewal of his or her license that the licensee intends to carry forward any such excess credit.

Existing regulations prohibit a person or entity from offering a course of continuing education for licensees in this State unless prior approval for the course has been obtained from the Board. (NAC 634A.137) **Section 12** of this regulation authorizes certain courses which are approved for recertification by the National Certification Commission for Acupuncture and Oriental Medicine to be offered as courses of continuing education for licensees in this State without prior approval by the Board and exempts such courses from the imposition of fees for the approval of courses of continuing education.

Existing regulations provide that the Board will prorate by the month the annual fee for the first renewal of an active or inactive license to practice Oriental medicine. (NAC 634A.140) **Section 13** of this regulation instead provides that a holder of a license is not required to pay the annual fee for the first renewal of an active or inactive license until February 1 of the year following the year in which the license was issued.

Existing regulations set forth the requirements for the reinstatement of a license to practice Oriental medicine that has been cancelled and require a person whose license has been cancelled to comply with the requirements within 1 year after cancellation or reapply for a new license. (NAC 634A.150) **Section 14** of this regulation instead requires a person whose license has expired to comply with the requirements within 90 days after expiration or reapply for a new license. **Section 15** of this regulation makes conforming changes to the fees charged by the Board. **Section 15** also eliminates the fees charged by the Board for transfers of licenses between active status and inactive status. **Section 16** of this regulation: (1) authorizes the payment of fees and remittances to the Board by credit card or debit card; and (2) provides that the Board will not refund any original or reexamination fee for the state examination or any renewal fee for an active or inactive license.

Existing regulations require certain applicants for a license to practice Oriental medicine to pass the Test of English as a Foreign Language Paper-Based Test or the Test of English as a Foreign Language Internet-Based Test and to demonstrate a reasonable proficiency in the English language through an oral interview at the time of the practical examination. (NAC 634A.095) **Section 17** of this regulation eliminates these requirements.

Existing regulations prohibit a holder of a license to practice Oriental medicine from operating under a fictitious name unless the licensee complies with certain requirements, including the submission of an application and fee to the Board. (NAC 634A.121) **Section 17** eliminates that prohibition. **Section 15** makes a conforming change to the fees charged by the Board.

Section 1. Chapter 634A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *“National examination” means the examination required by paragraph (a) of subsection 1 of NRS 634A.120.*

Sec. 3. *“State examination” means the examination required by paragraph (b) of subsection 1 of NRS 634A.120.*

Sec. 4. NAC 634A.001 is hereby amended to read as follows:

634A.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 634A.002 to 634A.008, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 5. NAC 634A.071 is hereby amended to read as follows:

634A.071 1. A person who desires to be licensed by the Board as a doctor of Oriental medicine must, at least 3 months before the date of the ~~practical~~ *state* examination in which the person wishes to participate:

(a) File an application with the Executive Director;

(b) Pay to the Board at the time of filing his or her application any applicable fees set forth in NAC 634A.165; and

(c) Submit any other documentation or proof that the Board may require.

2. The application must be:

(a) Made on the form provided by the Board; and

(b) Typed or written in English.

3. The application must include:

- (a) The social security number of the applicant;
- (b) A set of the fingerprints of the applicant, together with written consent for the Board to submit the fingerprints to any law enforcement agency in connection with his or her application;
- (c) Written consent of the applicant to an investigation of his or her personal background, professional training and experience by the Board or any person acting on its behalf; and
- (d) Evidence that the applicant possesses the qualifications required pursuant to this chapter and chapter 634A of NRS for licensure as a doctor of Oriental medicine.

Sec. 6. NAC 634A.080 is hereby amended to read as follows:

634A.080 1. An applicant for a license to practice Oriental medicine must submit, together with his or her application, evidence that he or she has successfully completed a 4-year program of study, or its equivalent, in Oriental medicine at a school or college of Oriental medicine which is approved by the Board.

2. If the application is submitted pursuant to subsection 1 of NRS 634A.140, the applicant must submit evidence showing that he or she has earned a bachelor's degree from an accredited college or university in the United States.

3. If the application for licensure by endorsement is submitted pursuant to subsection 2 of NRS 634A.140, the applicant must submit evidence that he or she:

- (a) Has lawfully practiced Oriental medicine in another state or foreign country for at least 4 years; and
- (b) Holds Oriental Medicine Certification by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization.

4. For the purposes of subsection 1, the Board may approve a 4-year program of study, or its equivalent, in Oriental medicine at a school or college of Oriental medicine if the Board finds that:

(a) The school or college of Oriental medicine is:

(1) Accredited by the Accreditation Commission for Acupuncture and Oriental Medicine or its successor organization; or

(2) In pre-accreditation status with the Accreditation Commission for Acupuncture and Oriental Medicine or its successor organization and satisfies the requirements of paragraph (b).

(b) The program of study includes training or instruction in the subjects of acupuncture, moxibustion, herbology, Oriental physiology, Oriental pathology, Oriental diagnosis, tuina or qigong, biology, chemistry or biochemistry, anatomy, Western physiology, Western pathology, Western diagnosis, pharmacology, laboratory and radiology.

(c) The program of study:

(1) Required the completion of at least 2,800 hours of instruction, including not less than 2,500 didactic hours, for a student to have graduated before November 25, 2002; or

(2) Requires the completion of at least 3,000 hours of instruction, including not less than 2,500 didactic hours, for a student to graduate on or after November 25, 2002 ~~§~~, *or results in the award of a combined bachelor's and master's degree in Oriental medicine to a student who graduates on or after November 25, 2002.*

5. For the purposes of subsection 1, the Board will deem a master's degree to be the equivalent of a 4-year program of study if the program of study for the degree conforms to the requirements of paragraphs (b) and (c) of subsection 4.

6. For the purposes of subsections 2 and 3, evidence that the applicant is qualified for licensure as a doctor of Oriental medicine must include certified copies of any diplomas, transcripts, licenses and certificates issued to the applicant. If possible, all certified copies of official diplomas, transcripts, licenses or certificates must be forwarded directly to the Executive Director from the issuing entity rather than from the applicant.

Sec. 7. NAC 634A.085 is hereby amended to read as follows:

634A.085 To comply with the requirement of passing ~~an~~ *the national* examination in Oriental medicine, ~~[that is administered by a national organization approved by the Board pursuant to NRS 634A.120,]~~ an applicant for licensure as a doctor of Oriental medicine must ~~[-~~

~~1. Have] have~~ passed ~~[the examinations]~~ *each examination* for Oriental Medicine Certification administered by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization. ~~[within the 12 months preceding the date of application for licensure; or~~

~~2. Be certified by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization.]~~

Sec. 8. NAC 634A.090 is hereby amended to read as follows:

634A.090 1. An investigation of an applicant's background and training by the Board or any person acting on its behalf must include:

- (a) Verification of a report from the Federal Bureau of Investigation showing no prior convictions;
- (b) Verification of graduation from a school or college approved by the Board;
- (c) Verification of licensure in another state or country, if applicable;

(d) Verification that questions on the application relating to the applicant's background have been answered correctly; and

(e) Further investigation of an applicant who attended a foreign school or college or practiced Oriental medicine in another state or country as the circumstances warrant.

2. An applicant may not take the ~~practical~~ *state* examination for which he or she has applied before the investigation of his or her background and training has been completed.

Sec. 9. NAC 634A.100 is hereby amended to read as follows:

634A.100 1. Until such time as the Board implements a process for administering ~~the~~ *practical* *the state* examination online:

(a) The ~~practical~~ *state* examination will be given in June and December of each year ~~and~~ *and at any other time that the Board may designate.*

(b) An applicant may not take the ~~practical~~ *state* examination unless the applicant has first passed the ~~examinations required pursuant to NAC 634A.085.~~ *national examination.* The Executive Director shall notify an applicant of the time and place of the ~~practical~~ *state* examination not later than 20 days before the date on which the ~~practical~~ *state* examination is scheduled.

(c) During the ~~practical~~ *state* examination, only the testing consultant and the applicants will be allowed in the examination rooms.

2. Upon the implementation of a process for administering the ~~practical~~ *state* examination online:

(a) Examinations will be offered at times and places established by the Board but at least two times each year in accordance with NRS 634A.120.

(b) The Board will notify an applicant of his or her eligibility to take the ~~practical~~ *state* examination online. Not later than 90 days after notification by the Board, the applicant must take the examination online at the facility that is designated by the Board.

3. As a part of the ~~practical~~ *state* examination, the Board may examine an applicant as to his or her ~~basic~~ knowledge of the ~~following subjects:~~

~~(a) Basic medical science concerning anatomy, physiology, pathology, bacteriology and communicable diseases.~~

~~(b) The Clean Needle Technique, as presented in the current guidelines of the Clean Needle Technique course administered by the Council of Colleges of Acupuncture and Oriental Medicine.~~

~~(c) Oriental medicine theory, herbology and acupuncture.~~

~~(d) Oriental herb safety and herb drug interactions.~~

~~(e) Applicable~~ laws and regulations *of this State* pertaining to health and safety ~~in the practice of Oriental medicine and the ethical standards applicable to the practice of Oriental medicine.~~

4. The ~~practical~~ *state* examination will be given in written form. Each applicant shall take the examination in the English language.

5. An applicant must receive ~~an overall~~ a score of *at least* 70 percent ~~on the practical examination and 65 percent on each of its sections or subparts~~ to pass the *state* examination.

Sec. 10. NAC 634A.110 is hereby amended to read as follows:

634A.110 ~~is~~ An applicant for a license to practice Oriental medicine who fails the ~~practical~~ *state* examination may retake the examination on the next scheduled examination

date. A person seeking reexamination must notify the Executive Director by completing a form prescribed by the Board and submitting the fee set forth in NAC 634A.165.

~~[2. If an applicant who has failed the practical examination failed only one section of the practical examination, the applicant will be reexamined only with respect to the section that he or she failed. If the applicant failed two or more sections of the practical examination, he or she must repeat the entire practical examination at the time of reexamination.]~~

Sec. 11. NAC 634A.135 is hereby amended to read as follows:

634A.135 1. Except as otherwise provided in this section, a licensee shall complete, during each calendar year, at least 10 hours of continuing education.

2. A licensee may only receive credit for hours of continuing education in courses that have been approved by the Board pursuant to NAC 634A.137.

3. Beginning with the 2003 calendar year, a licensee who earns more than 10 hours of credit for continuing education in any calendar year may carry forward up to 10 hours of excess credit and apply such excess credit to the educational requirements for the next calendar year. ~~[if the licensee indicates in writing, at the time he or she submits the form for renewal of his or her license pursuant to NRS 634A.167, that the licensee intends to carry forward such excess credit.]~~

4. A licensee who is not practicing in this State may request the Board to classify his or her license as inactive. A person who holds an inactive license is exempt from the requirements set forth in this section regarding continuing education.

5. A person who is requesting the Board to change the classification of his or her license from inactive to active must:

(a) Satisfy the requirements of continuing education for the year in which the person seeks to reclassify his or her license; *and*

(b) Submit proof to the Board that the person has satisfied the applicable requirements . ~~;~~
~~and~~

~~—(c) Submit the fee set forth in NAC 634A.165.]~~

Sec. 12. NAC 634A.137 is hereby amended to read as follows:

634A.137 1. Except as otherwise provided in subsection 2, a person or entity shall not offer a course of continuing education for licensees in this State unless the person or entity has first obtained approval for the course from the Board pursuant to this section.

2. Courses in *any of* the core ~~[competency]~~ *competencies* of Acupuncture and Oriental Medicine and Biomedicine (AOM-BIO), *Oriental Medicine Foundation and Theory (AOM-OM)*, *Acupuncture (AOM-AC)*, *Chinese Herbology (AOM-CH)*, *Asian Bodywork Therapy (AOM-ABT)*, *Safety (SA) or Ethics (ET)*, which are approved for recertification by the National Certification Commission for Acupuncture and Oriental Medicine , may be offered as courses of continuing education for licensees in this State without approval from the Board and are exempt from the imposition of fees for approval of courses of continuing education pursuant to NAC 634A.165.

3. A person or entity may apply for approval of a course of continuing education by submitting to the Board:

(a) An application, on a form provided by the Board, which must include information indicating the specific subject or topics to be presented and the name of each proposed instructor;

(b) All material relating to the course, including, without limitation, written material to be provided to a licensee attending the course; and

(c) The fee required pursuant to NAC 634A.165.

4. If the Board approves a course of continuing education pursuant to this section, the Board will determine the number of hours of continuing education that a licensee may receive for attending the course.

5. Board approval of a course of continuing education other than a course described in subsection 2 expires 4 years after that approval.

Sec. 13. NAC 634A.140 is hereby amended to read as follows:

634A.140 Except as otherwise provided in this section, each person who holds an active or inactive license to practice Oriental medicine shall pay to the Board an annual fee for the renewal of the license as required by NAC 634A.165. ~~The Board will prorate by month~~ *A holder of a license is not required to pay* the annual fee for the first renewal of an active or inactive license to practice Oriental medicine ~~until February 1 of the year following the year in which the license was issued.~~

Sec. 14. NAC 634A.150 is hereby amended to read as follows:

634A.150 1. Any person whose license has ~~been cancelled~~ *expired* pursuant to NRS ~~634A.160~~ *634A.167* and who desires to reinstate his or her license may have the license reinstated if:

(a) Not later than ~~1 year~~ *90 days* after the date on which the license ~~was cancelled~~ *expired*:

(1) The person submits to the Board ~~all required fees for the period during which his or her license was cancelled;~~ *the annual fee for the renewal of the license*, plus any late fee set forth in NAC 634A.165; and

(2) The person submits proof of compliance with the applicable requirements concerning continuing education; and

(b) The Board reinstates the license of the person at a regularly scheduled meeting.

2. Any person whose license has ~~been cancelled~~ *expired* pursuant to NRS ~~634A.160,~~ *634A.167*, who fails to comply with the requirements of paragraph (a) of subsection 1 and who desires a license must reapply for a new license.

Sec. 15. NAC 634A.165 is hereby amended to read as follows:

634A.165 The Board will charge and collect the following fees:

Original application for licensure as a doctor of Oriental medicine\$1,000.00
Renewal of active license before February 1700.00
Renewal of inactive license before February 1500.00
Penalty for late renewal of license within 90 days after February 1100.00
Penalty for late renewal of license more than 90 days after February 1200.00
Penalty for reinstatement of cancelled license500.00
Original application for use of fictitious name100.00
Replacement of pocket license100.00

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Replacement of license.....	200.00
Original fee for [practical] state examination.....	1,000.00
Reexamination fee for [practical] state examination.....	500.00
Transfer of license from active status to inactive status.....	200.00
Transfer of license from inactive status to active status.....	500.00
Approval of course of continuing education.....	100.00
Temporary certificate for lecturing or training.....	100.00
Check returned for insufficient funds.....	25.00
For copies of this chapter and chapter 634A of NRS.....	10.00
For other copies, per page.....	0.25
For other copies, per compact disc or tape recording.....	20.00
Original application fee for a school or college of Oriental medicine.....	2,000.00
Annual fee for approval of curriculum before February 1.....	1,000.00

Sec. 16. NAC 634A.230 is hereby amended to read as follows:

634A.230 1. Fees and remittances must be paid to the Board by *credit card or debit card* *or by* money order, bank draft or check payable to “State Board of Oriental Medicine.”

Remittances in currency or coin are wholly at the risk of the remitter and the Board assumes no responsibility for their loss. Postage stamps will not be remitted.

2. The Board will not refund any part of the application fee to an applicant if the applicant:

(a) Does not complete his or her application by providing all the documentation required by the form for application within 6 months after the actual date of filing of the form by the applicant;

(b) Withdraws his or her application; or

(c) Dies before he or she is issued a license by the Board.

3. The Board will not refund any original or reexamination fee for the state examination or any renewal fee for an active or inactive license.

Sec. 17. NAC 634A.095 and 634A.121 are hereby repealed.

TEXT OF REPEALED SECTIONS

634A.095 Proficiency of applicant in English language. (NRS 634A.070, 634A.120)

1. Except as otherwise provided in subsection 2, an applicant for a license to practice Oriental medicine must:

(a) Before taking the practical examination:

(1) Pass the Test of English as a Foreign Language Paper-Based Test with a score of at least 550; or

(2) Pass the Test of English as a Foreign Language Internet-Based Test with a total score of at least 80; and

(b) At the time of the practical examination, demonstrate a reasonable proficiency in the English language through an oral interview.

2. Subsection 1 does not apply to an applicant who graduated from a high school or college in the United States.

634A.121 Practice under fictitious name; prohibition against multiple licenses and registration under same name. (NRS 634A.070)

1. A licensee shall not operate under a fictitious name unless the licensee complies with chapter 602 of NRS and files with the Board a certified copy of the certificates issued by the county clerk.

2. Any licensee who wishes to practice under a fictitious name must submit to the Board an application, on a form provided by the Board, accompanied by a fee of \$50.

3. The Board will not issue more than one license or register more than one licensee under the same name.