

Joe Lombardo, Governor



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NOTICE OF INTENT TO ACT UPON A PROPOSED REGULATION LCB FILE NO.
R024-24

Notice of Hearing for the Adoption of a Permanent Regulation of the Nevada State Board of Oriental Medicine

NOTICE IS HEREBY GIVEN that the Nevada State Board of Oriental Medicine will hold a Public Hearing at 6:30 p.m., on May 21, 2024.

Members of the public are invited to attend virtually with the following Zoom link below or via telephone:

Videoconference:

<https://us02web.zoom.us/j/9737003097>
Meeting ID: 973 700 3097
Passcode: 009262

Telephone:

1-253-215-8782
Meeting ID: 973 700 3097
Passcode: 009262

The purpose of the hearing is to receive comments from all interested persons regarding the adoption of a regulation pertaining to Chapter 634A of the Nevada Administrative Code, LCB File No. R024-24. The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation.

The need for and the purpose of the proposed regulation is to existing law clarifies the authority of the State Board of Oriental Medicine to issue approve Oriental Medicine schools where an applicant is already licensed in a different state, updates the name of the

school accreditation commission, removes the subject of chemistry or biochemistry from the requirements for a program of study, expands the timeframe of CEU acceptance, repeals the need of issuing temporary certificates to non-licensees to conduct lecturing/educational seminars, and eliminating and reducing certain fees.

2. Either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

See text of R024-24 (attached hereto) for specific amendment language.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

A copy of the proposed regulation may be obtained at:

*Nevada State Board of Oriental Medicine
3191 E. Warm Springs Rd.
Las Vegas, Nevada 89120
Phone (702) 675-5326
Fax (702) 989-8584
Email: omboardexecutivedirector@gmail.com*

4. A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:

- (a) Both adverse and beneficial effects.

The economic effect of the proposed regulation on the business and on the public would be cost savings due to the elimination and/or reduction in certain fees. Also, there is a benefit to the small business as the CEU acceptance window has been extended to 365 days from the renewal deadline, rather than a more restrictive calendar year. Further, non-licensees can conduct lecturing/educational seminars without having to obtain a temporary licensing certificate from the Board.

There is no identifiable adverse economic effect on the business and on the public.

- (b) Both immediate and long-term effects.

The immediate and long-term effects of the proposed regulation on the business and on the public would be cost savings due to the elimination and/or reduction in certain fees. Also, there is a benefit to the small business as the CEU acceptance window has been extended to 365 days from the renewal deadline, rather than a more restrictive calendar year. Further, non-licensees can conduct lecturing/educational seminars without having to obtain a

temporary licensing certificate from the Board.

Additionally, the long-term economic effect for the public may be increased choice due to competition between, and improved access to a higher number of highly qualified Oriental Medicine practitioners, creating a robust market. There will be an increase in the number of practitioners who offer non-opioid alternatives to pain management, decreasing the cost of care for pain management.

5. A statement identifying the methods used by the Nevada State Board of Oriental Medicine in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608:

The Board emailed out a notice on 3/10/2023 to solicit written input from its licensees and requestors. There was no written feedback. A public workshop was held on 4/13/2023. Public comment on each regulation change was solicited and considered at the public workshop.

6. The estimated cost to the agency for enforcement of the proposed regulation.

There will be no significant cost to the Nevada State Board of Oriental Medicine for enforcement of the proposed regulation.

7. A description of any regulations of other state or local government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

There are no similar regulations of other state or government agencies that the proposed regulations overlap or duplicate.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

This proposed regulation is not required by federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

There is no federal regulation that regulates the same activities in this proposed regulation.

10. The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

Persons wishing to comment upon the proposed action of the Nevada State Board of Oriental Medicine may appear and make oral comment at the scheduled public hearing, or may address their comments, data, views or arguments, in written form, to the Nevada State Board of Oriental Medicine, Attention: Merle Lok, Executive Director, at 3191 E. Warm Springs Road, Las Vegas, Nevada 89120, Phone (702) 675-5326; Fax (702) 989-8584; Email: omboardexecutivedirector@gmail.com. Written submissions must be received by Nevada State Board of Oriental Medicine on or before May 15, 2024. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Board of Oriental Medicine may proceed immediately to act upon any written submission.

Copies of the notice and the regulations to be adopted or amended will be available at the Nevada State Board of Oriental Medicine, 3191 E. Warm Springs Road, Las Vegas, Nevada 89120 and our website at <http://orientalmedicine.nv.gov>. A copy of this notice and the regulation to be adopted or amended has been submitted for posting for inspection by members of the public during business hours at the Nevada State Library and Archives, 100 Stewart Street, Carson City, Nevada. Copies of this notice and the proposed regulation will be mailed to members of the public upon request at no charge upon request.

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us/>. Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption. This notice of hearing has been posted at the following locations/websites:

Board of Oriental Medicine, 3191 E. Warm Springs Rd., Las Vegas, NV 89120
<http://orientalmedicine.nv.gov/>
<https://notice.nv.gov/> - State of Nevada Public Notices
<https://www.leg.state.nv.us/> - State of Nevada Register of Administrative Regulations

A copy of this notice of intent to act upon a regulation also has been e-mailed to all licensees of the Nevada State Board of Oriental Medicine for whom the Board has permission to contact, and to all persons who have requested in writing that they be placed upon a mailing list, which is maintained by the Nevada State Board of Oriental Medicine for this purpose.

PROPOSED REGULATION OF THE STATE BOARD OF ORIENTAL MEDICINE

LCB File No. R024-24

March 8, 2024

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

AUTHORITY: § 1, NRS 634A.070; § 2, NRS 634A.070 and 634A.140; § 3, NRS 634A.070 and 634A.167; § 5, NRS 634A.070, 634A.110, 634A.165 and 634A.167; § 6, NRS 634A.070 and 634A.165.

A REGULATION relating to Oriental medicine; revising the qualifications for licensure to practice Oriental medicine; revising provisions relating to continuing education; revising certain fees; repealing the requirements for the issuance of a temporary certificate for lecturing or educational seminars; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Oriental Medicine to issue a license to practice as a doctor of Oriental medicine to an applicant who, among other requirements: (1) 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; and (2) has lawfully practiced Oriental medicine in another state or foreign country for at least 4 years. (NRS 634A.140) Existing regulations provide for the approval of a school or college only if the school or college is: (1) accredited by the Accreditation Commission for Acupuncture and Oriental Medicine or its successor organization; or (2) in pre-accreditation status with that organization. (NAC 634A.080) **Section 2** of this regulation additionally authorizes the Board to approve a school or college that is approved by a licensing agency that regulates the practice of Oriental medicine in another state, if the applicant is currently licensed in that state. **Sections 1 and 2** of this regulation revise the name of the Accreditation Commission to the “Accreditation Commission for Acupuncture and Herbal Medicine” to reflect the current name of that organization.

Existing regulations set forth the requirements for a program of study in Oriental medicine, including training or instruction in certain subjects. (NAC 634A.080) **Section 2** removes the subject of chemistry or biochemistry from the requirements for a program of study.

Existing regulations require the holder of a license to practice Oriental medicine to complete at least 10 hours of continuing education each calendar year. Existing regulations authorize a licensee to carry forward up to 10 hours of excess credit and apply such credit to the educational requirements for the next calendar year. (NAC 634A.135) **Section 3** of this regulation revises those time periods from a calendar year to the 365 days immediately preceding the submission of an application for annual renewal of a license.

Existing law authorizes the Board to adopt regulations for the issuance of temporary certificates to persons not licensed under chapter 634A of NRS in order to conduct lecturing or

educational seminars. (NRS 634A.165) Existing regulations set forth the requirements for obtaining such a temporary certificate. (NAC 634A.125) **Section 6** of this regulation repeals the requirements for the issuance of such a certificate, thereby eliminating such certificates. **Section 5** of this regulation makes a conforming change by eliminating the fee for the issuance of such a temporary certificate.

Existing law authorizes the Board to charge and collect certain fees. (NRS 634A.070, 634A.110, 634A.165, 634A.167) **Section 5**: (1) reduces the fees charged for an original application for licensure as a doctor of Oriental medicine, renewal of an active license submitted before February 1 and the state examination; (2) establishes a separate, reduced fee for renewal of a license for certain military members, veterans and their spouses submitted before February 1; and (3) eliminates the fees charged for the replacement of a pocket license, copies of chapter 634A of NRS and chapter 634A NAC and certain other copies. **Section 4** of this regulation makes a conforming change to eliminate a reference to the fee for the replacement of a pocket license.

Section 1. NAC 634A.035 is hereby amended to read as follows:

634A.035 For the purposes of paragraph (b) of subsection 1 of NRS 634A.090, the

Board will approve the curriculum of a program of study of a school or college of Oriental medicine if the school or college submits to the Board proof of payment of annual sustaining accreditation or pre-accreditation dues for that program of study to the Accreditation Commission for Acupuncture and ~~{Oriental}~~ *Herbal* Medicine or its successor organization. No other review of the curriculum by the Board will be deemed necessary.

Sec. 2. 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 ~~and~~; *and*

(c) If the applicant successfully completed a 4-year program of study at a school or college of Oriental medicine described in subparagraph (3) of paragraph (a) of subsection 4, holds a valid license to practice Oriental medicine in the applicable state.

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~~ *Herbal* Medicine or its successor organization; ~~or~~

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

(3) Approved by a licensing agency that regulates the practice of Oriental medicine in another state, if the applicant currently holds a valid license to practice Oriental medicine in that state;

(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 ~~;~~; *and*

(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. 3. 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,~~ *period of 365 days immediately preceding the submission of the*

application for the annual renewal of his or her license, 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]~~ *the period of 365 days immediately preceding the submission of the application for the annual renewal of his or her license* may carry forward up to 10 hours of excess credit and apply such excess credit to the educational requirements for the next ~~[calendar year.]~~ *renewal of his or her license*.

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.

Sec. 4. NAC 634A.160 is hereby amended to read as follows:

634A.160 1. If a license is revoked, the license and the pocket license previously issued by the Board must be surrendered by the licensee to the Executive Director within 5 days after receipt of a notice of revocation.

2. If a license is suspended for a fixed period, the license and pocket license previously issued by the Board must be surrendered by the licensee to the Executive Director within 5 days after receipt of a notice of suspension.

3. If a license or pocket license must be surrendered pursuant to subsection 1 or 2 but has been lost, stolen or destroyed, the licensee must complete and file an affidavit with the Board stating that the license or pocket license has been lost, stolen or destroyed and that the licensee will immediately return the license or pocket license if it is later recovered by the licensee.

4. If the license or pocket license of a licensee is lost, stolen or destroyed, the licensee must:

(a) Complete and file an affidavit with the Board stating that the license or pocket license has been lost, stolen or destroyed and that the licensee will immediately return the license or pocket license if it is later recovered by the licensee; and

(b) ~~Pay~~ *For the replacement of a license, pay* the fee set forth in NAC 634A.165 for replacement of the license . ~~for pocket license.~~

Sec. 5. 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.....	.. [\$1000.00] \$900.00
Renewal of active license before February 1 [700.00] 600.00
Renewal of inactive license before February 1500.00

Renewal of active license of an active member of the Armed

<i>Forces of the United States, a veteran or the spouse of such a</i>	
<i>member or veteran before February 1</i>	<i>500.00</i>
Penalty for late renewal of license within 90 days after February 1	100.00
Replacement of pocket license	100.00
Replacement of license	200.00
Original fee for state examination	1,000.00 900.00
Reexamination fee for state examination	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 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. 6. NAC 634A.125 is hereby repealed.

TEXT OF REPEALED SECTION

634A.125 Issuance of temporary certificate for seminar, lecture or teaching. A person who is not a licensee may be issued a temporary certificate pursuant to NRS 634A.165 if:

1. The person submits an application to the Board, on a form provided by the Board, that includes:

- (a) The curriculum vitae of the applicant;
- (b) The specific topic concerning Oriental medicine or acupuncture which is the subject of the seminar, lecture or teaching;
- (c) The specific dates for which the temporary certificate is requested; and
- (d) Evidence that the person is competent with respect to the specific topic concerning Oriental medicine or acupuncture which is the subject of the seminar, lecture or teaching;

2. The person submits the appropriate fee for issuance of a temporary certificate pursuant to NAC 634A.165; and

3. The Board approves the application at a meeting of the Board.