Acupuncture Laws and Rules

Description of Course
Designed to assist acupuncturists to fulfill the requirements for the state of Florida and for NCCAOM in the category of law and rules. It covers the legislative intent of the Florida laws and rules, licensing requirements, continuing education requirements, fees and disciplinary actions.

Objectives
At the completion of this course, the motivated learner should be able to:

• Define the legislative intent of the Florida law
• Identify membership on the Board of Acupuncture
• Name licensure requirements and fees for acupuncture
• List continuing education requirements for biennial renewal of licensure
• Compare and contrast disciplinary actions and prohibited acts
• Define inactive and delinquent status

Background
The Florida Board of Acupuncture requires acupuncturists to complete a minimum of 30 hours of continuing education every biennium as a condition of biennial license renewal. At least two hours must be on the topic of Chapter 456 and 457, Florida Statutes and Rules Chapter 120, Florida Administrative Procedures Act (laws and rules), two hours on prevention of medical errors, five hours on laboratory test findings, and three hours on imaging findings, 18 general hours

You may obtain your copy of laws and rules by writing to the following agency:
Division of Medical Quality Assurance
Board of Acupuncture
4052 Bald Cypress Way, BIN #C06
Tallahassee FL 32399-3256

Or

Access these web sites:

http://www.doh.state.fl.us/mqa/acupuncture/acu_home.html
http://www.doh.state.fl.us/mqa/acupuncture/acu_assoc.html

Chapter 457: Acupuncture
Legislative Intent:
The legislative intent of this chapter is to protect the health, safety and welfare of the general public while making this healing art available to those who seek it.

(Importance to you as an acupuncturist: The purpose of the law is to protect the health, safety and welfare of the general public when you are practicing acupuncture.)
Definitions:
1. **Acupuncture** = 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 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.
2. **Acupuncturist** = any person licensed to practice acupuncture as a primary health care provider.
3. **Board** = Board of Acupuncture
4. **License** = the document of authorization issued by the department for a person to engage in the practice of acupuncture
5. **Department** = Department of Health
6. **Division of Medical Quality Assurance** = The board of acupuncture is under this division of the Department of Health
7. **Oriental medicine** = the use of acupuncture, electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies
8. **Prescriptive rights** = 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

**Board of Acupuncture: Membership, Appointment, Terms:**
The Board of Acupuncture in Florida is within the Department of Health. The Board consists of seven members, appointed by the Governor and confirmed by the Senate with four year terms. Five members must be licensed acupuncturists. Two members must be laypersons who are not acupuncturists or members of any closely related professions.

(Importance to you as an acupuncturist: Good to know the background of the members of the Board. They are making rules for your profession.)

**Rulemaking Authority:**
The board has authority to adopt rules and to implement provisions of this chapter conferring duties upon it.

(Importance to you as an acupuncturist: The Board has authority to make changes rules in the Florida law.)

**Licensure Qualifications and Fees:**
It is unlawful for anyone to practice acupuncture without a license in Florida. A person may practice acupuncture if the person applies to the department and:
   a. 21 years of age or older, has good moral character, has the ability to communicate in English, has passed the national written examination in English or passed a nationally recognized English proficiency exam
   b. has completed 60 college credits from an accredited postsecondary institution as a prerequisite to enrollment in an authorized 3-year acupuncture and oriental medicine course, and after July 31, 2001, completion of a 4-year course in acupuncture and oriental medicine, which meet standards
established by the board by rule. These standards include, but are not limited to successful completion of academic courses in:

- western anatomy
- western physiology
- western pathology
- western biomedical terminology
- first aid
- CPR

- If a person enrolled in an authorized course of study prior to August 1, 1997, must have completed only a 2-year course of study which meets standards established by the board rule. These standards must include successful completion of courses in western anatomy, western physiology, and western pathology.

c. has successfully completed a board-approved national certification process, is licensed in another state that has similar exam requirements, 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. This examination includes 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. At the request of any applicant, oriental nomenclature for the points may be used, and

d. pays the required fees set by the board not to exceed the following amounts:
   1. Examination fee: $500 plus the actual per applicant cost for the purchase of the written and practical portions of the national exam.
   2. Application fee:$300.
   3. Reexamination fee: $500 plus the actual cost for purchase of the written and practical portions of the national exam.
   4. Initial biennial licensure fee: $400, if licensed for the first half of the biennium, and $200 if licensed in the second half of the biennium.

(Importance to you as an acupuncturist: Florida has requirements that may differ from other states. Know the law so that you comply with the requirements. Ignorance of the law is not a valid defense.)

Renewal of Licenses
1. Renewal license fee must not exceed $500.
2. The department adopts rules for biennial licensure renewal.
   (Importance to you as an acupuncturist: Watch for changes in the law regarding additional fees and any other changes that may come up.)

Continuing Education
The board prescribes continuing education requirements, not to exceed 30 hours biennially. Each continuing education provider must pay a fee, not to exceed $100, for providership. All national and state acupuncture and oriental medicine organizations and schools are approved to provide continuing education. Continuing education providers must pay a fee not to exceed $100 to offer continuing education programs. The
continuing education requirements must be in acupuncture or oriental medicine subjects including, but not limited to, the following:

- Anatomy
- Biological sciences
- Adjunctive therapies
- Sanitation and sterilization
- Emergency protocols
- Diseases

*Participants must retain copies of continuing education certificates of completion in case of audit.

(Importance to you as an acupuncturist: Know what courses are required each biennium and don't wait until the last minute to complete them. Also know that the continuing education provider is current in their providership. You can check this through the Board of Acupuncture. In addition, make sure the provider is current with NCCAOM providership. Keep certificates for 4 years.)

### Inactive status; Expiration; Reactivation of Licenses

1. A license that is inactive may be reactivated upon application to the department and completion of continuing education requirements not to exceed 10 classroom hours 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 establishes an application fee for inactive status, renewal of inactive status, a delinquency fee, and a reactivation fee. None of these fees may exceed the biennial renewal fee.

3. A license may not be activated unless the inactive or delinquent fees and any applicable biennial fees have been paid.

(Importance to you as an acupuncturist: It is illegal to practice acupuncture without a proper license and the fines can be extensive. Two principles to keep in mind: Know the law and obey the law. If you want to apply for inactive status, follow the state of Florida procedures and when you are ready to activate follow the proper procedures.)

### Self Test: Select T if the statement is TRUE or F if the statement is FALSE.

1. T  F The legislative intent of the Florida Law for acupuncture is to protect acupuncturists.

2. T  F The Board of Acupuncture is within the Department of Continuing Education.

3. T  F An inactive license may be reactivated upon application to the department and completion of continuing education requirements.

**Answers:** 1. F  2. F  3.T

### Infection Control

The board has adopted rules relating to the prevention of infection, the sage disposal of any potentially infectious material and other requirements to protect the health, safety,
and welfare of the public. All acupuncture needles must be sterile and disposable, and each needle may be used only once.

(Importance to you as an acupuncturist: Know and follow OSHA requirements and practice impeccable infection control. Establish a contract with a biohazardous waste contractor. Good hygiene and good infection control techniques enhance your practice and protect you and your patient.)

Disciplinary Actions
1. The following acts constitute grounds for disciplinary actions:
   a. Attempting to obtain, obtaining, or renewing a license by bribery, fraudulent misrepresentation, or through error of the department.
   b. Having a license revoked, suspended, or otherwise acted against, or denied in 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. Any plea of nolo contendere is also considered a conviction.
   d. False, misleading, deceptive advertising which states that acupuncture cures any disease.
   e. Failing to report to the department any person who the licensee knows is in violation to this chapter or the rules of the department.
   f. Advertising, assisting, procuring, employing, or advising any unlicensed person to practice acupuncture.
   g. Advertising, practicing, or attempting to practice under a name other than one’s own.
   h. Failing to perform any statutory or legal obligation of an acupuncturist.
   i. Making or filing a report that is false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing the filing by another.
   j. Exercising influence within the patient/acupuncturist relationship for purposes of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with his acupuncturist.
   k. Making deceptive, untrue, or fraudulent representations in the practice of acupuncture or employing a trick or scheme that fails to conform to the generally prevailing standards of treatment in the community.
   l. Soliciting patients 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 financial gain of the licensee or third party.
   o. Being unable to practice acupuncture with reasonable skill and safety 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. If probable cause is found, the
department has the authority to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses, a petition for enforcement will be filed in the circuit court where the licensee lives. The proceedings will be closed to the public. Any acupuncturist affected under this rule will have opportunity to demonstrate that he or she can resume practicing with reasonable skill and safety to patient.

p. Gross or repeated malpractice or the failure to practice acupuncture with the level of care, skill and treatment recognized as acceptable standards.

q. Practicing or offering to practice beyond the legal scope of practice or beyond the licensee’s competency.

r. Delegating professional responsibilities to unqualified persons.

s. Violating any provision of this chapter, a rule of the department, or a lawful order of the department 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 coerces, intimidates, or precludes 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.

(Importance to you as an acupuncturist: In addition to disciplinary action there can also be penalties.)

2. Penalties:
   a. Refusal to certify to the department an application for licensure.
   b. Revocation or suspension of a license.
   c. Restriction of practice.
   d. Administrative fine not to exceed $1000 for each count or separate offense.
   e. Reprimand.
   f. Probation for a period of time subject to conditions specified by the board.
   g. Placement on probation for a period of time and subject to specified conditions by the board.
   h. The department will not reinstate a license or cause a license to be issued to a person it deemed to be unqualified, until the board is satisfied that all terms and conditions in the final order have been met.

(Importance to you as an acupuncturist: Fees can be extensive and you will not have a license to practice acupuncture until all penalties are satisfied.)

Prohibited Acts:
1. A person may not:
   a. Practice acupuncture without a license.
   b. Use any title or description of services which incorporates the words “acupuncture”, “acupuncturist”, “certified acupuncturist”, “licensed
acupuncturist”, oriental medicine 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 is licensed.

c. Present as his own the license of another.

d. Knowingly give false or forged evidence to the board or a member of the board.

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

f. Employ an unlicensed person to practice acupuncture.

g. Conceal information relating to any chapter of this law.

2. Any person who violates this section commits a misdemeanor of the second degree with as fine up to $1000.00 for each offense and probation.

(Importance to you as an acupuncturist: If you fail to recognize these requirements, you will be disciplined, pay a fine, and it will become a part of your permanent record.)

Chapter 456

Health Professions and Occupations: General Provisions

All provisions in this chapter apply to acupuncture.

456.001 Definitions:

1. Board= Any board or commission authorized to exercise regulatory or rulemaking functions within the Division of Medical Quality Assurance

2. Consumer Member= a person appointed to serve on a specific board who is not or has been a practitioner of the profession

3. Department= Department of Health

4. Health Care Practitioner= any person licensed under chapter 456 or others needing licensure

5. License= any permit, registration, certificate, or license issued by the department

6. Licensee= any person or entity issued a permit, registration, certificate, or license by the department

7. Profession= any activity, occupation, profession, or vocation regulated by the department in the Division of Medical Quality Assurance

456.002 Applicability

This chapter applies only to the regulation by the department of professions.

(Importance to you as an acupuncturist: Acupuncturists are under the Board of Medical Quality Assurance of the Department of Health and therefore must meet all qualifications as medical professionals.)

456.003 Legislative Intent

It is the intent of the legislature that persons desiring to engage in any lawful profession regulated by the department shall be entitled to do so as a matter of right if otherwise qualified. The legislature believes that such professions be regulated only for the preservation of health, safety, and welfare of the public under the public powers of the state. Such professions will be regulated when;
• Their unregulated practice can harm or endanger the health, safety, and welfare of the public, or when the potential for harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.
• The public is not protected by any other means.
• Less restrictive means of regulation are not available.

It is further legislative intent that the use of the term “profession” shall not be deemed to mean that such activities are not occupations for other purposes in state or federal law. Neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention on the ability of individuals who seek to practice or who are practicing a profession or occupation to find employment. The legislature shall evaluate proposals to increase the regulation of regulated professions or occupations to determine the effect of increased regulation on job creation or retention or employment opportunities.

Policies adopted by the department must ensure that all expenditures are made in the most cost effective manner. The duties conferred upon the board do not include the enlargement, modification, or contravention of the lawful scope of practice of the profession regulated by the board.

(Importance to you as an acupuncturist: Your role is to protect the health, safety and welfare of all patients while practicing acupuncture.)

456.004 Department; Powers and Duties:
The department, for the professions under its jurisdiction, may:
1. Adopt rules for biennial renewal of licenses
2. Appoint the executive director, subject to board approval
3. Submit an annual budget
4. Develop a training program for newly appointed persons on the board
5. Adopt other rules to implement the provisions of this chapter
6. Establish rules and procedures appropriate to the board for the purposes of investigation, inspection, evaluation of applications, other duties of the department, or any other areas the department deems appropriate
7. Record all proceedings
8. Select only those investigators, or consultants to undertake investigations who meet established criteria
9. Allow applicants for new or renewal licenses and current licensees to be screened by the Title IV-D child support agency. The department can, when directed by the court, suspend or deny the license of any licensee found to have a delinquent support obligation. The department can reinstate a license without additional charge to the licensee when notified by the court that the licensee has complied with the terms of the court order. The department will not be held liable for any license denial or suspension resulting from the discharge of its duties under this subsection.
10. Set an examination fee that includes all costs to develop, purchase, validate, administer, and defend the examination and is an amount that will cover all administrative costs plus the actual per-applicant cost of the examination. (Importance to you as an acupuncturist: Recognize that the Department of Health can establish laws for your profession.)

456.005 Long-Range Planning:
There is a long range planning process for 5 years to estimate revenues, expenditures, cash balances, and performance statistics. The department monitors compliance and updates annually. As part of the review process, the department evaluates:
1. Whether the department and the boards are operating efficiently and effectively.
2. How and why the various professions are regulated.
3. Whether there is a need to continue regulation, and to what degree.
4. Whether or not consumer protection is adequate, and how it can be improved.
5. Whether there is consistency between the various practice acts.
6. Whether unlicensed activity is strictly enforced. (Importance to you as an acupuncturist: The Department oversees the Board.)

456.006 Contacting Boards Through the Department
Each board can be contacted through the headquarters of the department in Tallahassee. (Importance to you as an acupuncturist: You can contact the Board by calling 850-245-4444.)

456.007 Board Members
Any person who otherwise meets the requirements of law for board membership and who is connected in any way with any medical college, dental college, or community college may be appointed to any board so long as that connection does not result in a relationship that represents the person’s principle source of income. (Importance to you as an acupuncturist: You may qualify to sit on the board if you are interested.)

456.008 Accountability and Liability of Board Members
1. Each board member is accountable to the Governor.
2. Each board member is exempt from civil liability while serving on a probable cause panel. (Importance to you as an acupuncturist: Board members have a serious responsibility and accountability when they make a decision to sit on a board.)

456.009 Legal and Investigative Services
1. The department provides board counsel for boards within the department by contracting with the Department of Legal Affairs.
2. The department may employ or use the legal services of outside counsel.
3. Any person retained by the department under contract to review materials, make site visits, or provide expert testimony regarding complaints is considered an agent of the department and gets sovereign immunity.
   (Importance to you as an acupuncturist: The Department of Health may hire outside counsel or help for certain responsibilities.)

456.011 Boards; Organization; Meetings; Compensation
1. Each board must comply with regulations in this section.
2. The board must annually elect a chairperson and vice chairperson.
3. The board must meet at least once annually. A quorum of 51 percent of the appointed members of the board must be present.
4. A board member or former board member is paid $50 plus expenses per day for each day attended.
5. If two or more boards have differences between them, a special committee may be established to settle these differences.
   (Importance to you as an acupuncturist: To help you understand the process and recognize that board members are reimbursed at the rate of $50 per day.)

456.012 Board Rules; Final Agency Action; Challenges
1. The secretary of the department may challenge any rule or proposed rule of a board under its jurisdiction. The administrative law judge, upon a challenge by the secretary, can declare all or part of a rule invalid if it:
   a. Does not protect the public from harm or damages
   b. Unreasonably restricts competition or the availability of the professional services
   c. Unnecessarily increases the cost of professional services without a corresponding public benefit
   (Importance to you as an acupuncturist: Helps you understand that the board does not have ultimate authority and that the department can challenge any rule that may not protect the public.)

456.013 General Licensing Requirements
1. a. Anyone who desires licensure must apply in writing.
   b. If the applicant does not have a social security number, the department may use a unique personal identification number.
2. Before the issuance of a license, the department can charge an initial license fee.
3. A. The board may refuse to issue an initial license to any applicant under investigation or prosecution in any jurisdiction for any action that constitutes a violation of any chapter of this law.
   b. If an applicant has been convicted of a felony, the board or department may require the applicant to prove his civil rights have been restored.
4. When an administrative law judge issues a recommended order, the board will issue a final order. The applicant may appeal.
5. A privilege against civil liability is given to any witness unless the witness acts in bad faith or with malice.
6. As a condition of license renewal, the board requires completion of continuing education.
7. The board requires completion of a 2 hour course relating to prevention of medical errors.
8. The board may adopt rules for the use of videocassette courses, not to exceed 5 hours per subject.
9. Up to 25 percent of the continuing education hours may be fulfilled by the performance of pro bono services to the indigent or underserved population within Florida.
10. An elected official licensed under a practice act administered by the Division of Medical Quality Assurance can be employed with a public agency concurrent with public service as long as this dual service is disclosed.
11. If compliance falls on a weekend or holiday, the next day after this time is permitted.
12. As a result of the Federal Responsibility and Work Opportunity Reconciliation Act of 1996, each person is required to give their social security number for the purpose of administration of Title IV-D program for child support enforcement.
   (Importance to you as an acupuncturist: You need to know the rules for obtaining and renewing your license. Licenses are important documents and should not be treated lightly.)

456.014 Public Inspection of Information from Applicants
1. All information required for application is public, except financial information, medical information, school transcripts, examination questions, answers, papers, grades, and grading keys.
2. The department can establish rules for reviewing examination questions by the applicant and his attorney.
3. The applicant must notify the department at least 5 days prior to an examination hearing.
   (Importance to you as an acupuncturist: You can review your examination if you follow the procedure and hire an attorney.)

456.015 Limited Licenses
1. The board may adopt rules to use retired professionals in good standing to serve the indigent, underserved or critical need populations in Florida.
2. Anyone wishing to obtain a limited license must submit an application to the board and pay a fee, not to exceed $300, and sign an affidavit that they have practiced in Florida for a minimum of 10 years.
3. The board may deny limited licensure to an applicant who has committed or under investigation for any disciplinary act.
4. The recipient of the limited license may practice only in the employment of public agencies which meet the requirements.
5. The board will supervise those with limited licenses.
6. Each person with a limited license must comply with all sections of this chapter.
   (Importance to you as an acupuncturist: If you are associated with a person with a limited license or you want to obtain a limited license, this section describes the process.)
456.017 Examinations
1. The department will obtain and oversee all examinations, in consultation with the board.
2. The board will specify the content through competency and develop the score needed for a passing grade. The board can approve national examinations.
3. The board can develop and administer a practical or clinical examination.
4. Each board is expected to reduce the costs of the examinations when possible by using national examinations.
5. Each board can develop policies for applicants to re-take examinations, but only the part missed is repeated.
6. Examinations are kept for 2 years.
7. Examinations may be translated, but a 6 month prior notification is required together with the cost of development.
   (Importance to you as an acupuncturist: How the board develops or changes the exam for licensure. The board uses the national examination.)

456.018 Penalty for Theft of Reproduction of Examination
The penalty of theft or reproduction of an exam constitutes a felony of the third degree plus discipline.
   (Importance to you as an acupuncturist: A felony carries a jail term and fee.)

456.019 Restriction on Requirement for Citizenship
A person cannot be disqualified from practicing an occupation or profession because he or she is not a United States citizen.
   (Importance to you as an acupuncturist: If a person is licensed to practice acupuncture in Florida, it is not necessary to be a citizen.)

456.021 Qualifications of Immigrants for Examination to Practice a licensed Profession or Occupation
1. The purpose of this section is to encourage the use of foreign-speaking Florida residents if qualified to work in Florida.
2. All persons must take the examination in English unless there are 15 or more applicants requesting that the re-examination be administered in their native language and are willing to pay a fee.
3. Each board implemented policies for Cuban nationals who were residents of this country on July 1, 1997.
   (Importance to you as an acupuncturist: Know the law so that anyone who comes to work in your clinic is properly licensed.)

456.022 Foreign-Trained Professionals; Special Examinations and License Provisions
1. The following may be eligible for licensure by examination:
a. Immigrants who left their home country because of political reasons, if the
country is in the western hemisphere and lacks diplomatic relations with the
United States.
b. Applies to the department and submits a fee
c. Was a Florida resident immediately before application
d. Documents completion from an appropriate college or occupational degree
e. Has practiced lawfully for at least 3 years.
f. Successfully completed an approved course of study
g. Presents a certificate of completion of an approved continuing education program
which prepares the applicant for the examination
2. After submission of documents and a fee, must pass a written practical examination.
3. Fees for the examination are established by the board.
4. No license will be given if the applicant is under investigation or prosecution in any
jurisdiction.
   (Importance to you as an acupuncturist: Important for you to know these
regulations.)

456.023 Exemption for Certain Out-Of-State or Foreign
Professionals; Limited Practice Permitted
1. A professional in another state or territory or jurisdiction of the United States is
exempt from licensure provided:
   a. Holds an active license to practice in his jurisdiction
   b. Engages in the active practice of the profession outside the state
   c. Is employed or designated in that professional capacity by a sports entity visiting
the state for a specific sport event- this is limited to members, staff, coaches of the
   team for which he is employed. This person does not have privileges in any
licensed health care facility or veterinary facility without the approval of that
   facility.
   (Importance for you as an acupuncturist: There are only a few reasons
that a person can practice acupuncture in Florida without a Florida
license.)

456.024 Members of Armed Forces in Good Standing with
Administrative Boards or the Department
1. Any member of the armed forces is exempt from paying dues as long as on active
duty and for a period of 6 months after discharge from active duty as long as that
person is not practicing his profession in the private sector for profit.
2. Spouses of active duty armed forces may also be exempt from licensure renewal
provided they are absent from the state because of their spouse’s duties with the
armed forces.
   (Importance to you as an acupuncturist: This applies to you if you are a
member of the armed forces or your spouse is a member of the armed
forces.)

456.025 Fees; Receipts; Disposition
1. All costs of regulating health care professions and practitioners are borne by licensees and applicants. Renewal fees:
   a. Based on revenue projections
   b. Adequate to cover expenses related to the long range policy plan
   c. Must be reasonable, fair and not be a barrier for applicants
   d. Based on potential earnings from working under the scope of licensure
   e. Similar to fees imposed on similar licensure types
   f. No greater than 10 percent greater than the previous biennium
   g. Subject to challenge to chapter 120
2. Chairpersons must meet annually to review the long-range policy plan
3. The board will review the fees for licensure based on long-range projections
4. A fee not to exceed $25 for issue of a wall certificate
5. The board may assess a one-time fee to maintain the financial strength of the profession
6. If the cash balance of the trust fund exceeds the total appropriation, the board may lower fees.
7. Continuing education providers must pay no more than $250 for the renewal of their providership.
8. All money paid in this chapter will be placed in a trust fund
9. The board must present a management report of budgets, finances, performance statistics, and recommendations each quarter.
10. Duplicate licenses may not exceed $25
11. Certification of records must not exceed $25
   (Importance to you as an acupuncturist: These are the fee requirements at this time.)

456.026 Annual Report Concerning Finances, Administrative Complaints, Disciplinary Actions and Recommendations
Each board must submit a report to the President of the Senate documentation of:
   1. Revenue, expenditures, and cash balances of the previous year and a review of fees
   2. Number of complaints received and investigated
   3. Number of findings of probable cause made
   4. Number of findings of no probable cause made
   5. Number of administrative complaints made
   6. Disposition of all administrative complaints
   7. Description of disciplinary actions
   8. Description of efforts made to close any case or investigative hearing not completed within 1 year after initial filing
   (Importance to you as an acupuncturist: The board has responsibilities to maintain and submit statistics to President of the Senate on an annual basis.)

456.027 Education; Accreditation
Schools must be accredited if required by statute.
(Importance to you as an acupuncturist: Check the school’s accreditation prior to taking any courses.)

456.028 Consultation with Postsecondary Boards to Adoption of Training Requirements
Any changes must be passed before the Commission for Independent Education prior to making any training requirement changes.

(Importance to you as an acupuncturist: Curriculum changes cannot be made without approval from the Commission for Independent Education.)

456.029 Education; Submitting Demonstration of Competency for Clock Hour Requirements
Student demonstration of established minimum competencies must be certified by the educational institution.

(Importance to you as an acupuncturist: Schools must maintain attendance by students in clock hours.)

456.031 Requirement for Instruction on Domestic Violence
Each person is required to complete a 1-hour course on domestic violence each biennium. If a person is licensed under the same department that course may qualify. Other courses to meet this requirement include End-of-Life Care or Palliative Care.

(Importance to you as an acupuncturist: The Board did not choose to make this a requirement for acupuncturists.)

456.032 HIV or Hepatitis B Carriers
1. The department has the authority to establish procedures to handle, counsel, and provide other services to health professionals who are infected with HBV or HIV.
2. Any licensed person who contracts a blood-borne infection has a rebuttable presumption that the illness was contracted in the course and scope of his employment.

(Importance to you as an acupuncturist: Some employers are required to report HIV and HBV contracted in the line of duty.)

456.033 Requirement for Instruction for Certain Licensees on HIV and AIDS
All initial licensures must complete a course on HIV/AIDS. It is not required for relicensure. Persons applying for initial licensure have 6 months to complete a course on HIV/AIDS.

456.035 Address of Record
1. Each licensee must notify the board of any change in address. Failure to do so can lead to discipline by the board.
2. Service by regular mail to a licensee’s last known address constitutes adequate and sufficient notice for communication from the board or department.
(Importance to you as an acupuncturist: Mail from the board is not forwarded, so give any change of address promptly to the board of acupuncture or your license renewal may be late.)

456.036 Inactive and Delinquent Status
A licensee must have an active license to practice. Disciplinary charges may be filed if a practitioner does not have an active license. An inactive license may be reactivated by paying a fee and meeting all standards for active practice.

(Importance to you as an acupuncturist: You will be disciplined if your license is not active. To reactivate a license, you must pay a fee and complete continuing education requirements.)

456.037 Business Establishments
1. Business establishments must obtain and retain an active license.
2. A business establishment must apply with a complete application and renew prior to expiration or be subject to disciplinary action.
3. A delinquent business establishment must apply with a complete application. Failure to renew the application after 6 months renders the license null and void. Any subsequent license must meet all standards.

(Importance to you as an acupuncturist: Know the rules of your city, county or municipality. They can impose penalties for failure to license your facility.)

Disciplinary Process
The disciplinary process can be very confusing. You do not want to be disciplined for any reason, but if you are, it is important that you understand the process. The process begins with a complaint or report that is filed against you with the Department of Health of the Agency for Health Care Administration (AHCA) which is the investigative and prosecutorial agency of the Acupuncture Board.

Once a complaint or report is filed, the subject of the complaint is notified of the complaint and investigation of the allegations is conducted by AHCA. The investigation may include interviews of witnesses and collection of exhibits pertaining to the complaint. When the investigation is complete, a Prosecuting Attorney reviews the investigative report. The Prosecuting Attorney, after reviewing, makes a recommendation to the Probable Cause Panel for the Board as to whether probable cause of a violation exists. If it exists, the Probably Cause Panel will direct the Prosecuting Attorney to file an Administrative Complaint.

The administrative complaint sets forth the laws alleged to have been violated by the licensee. The Administrative Complaint is served on the licensee and the licensee MUST respond to the Complaint or waive the right to challenge the Complaint. Generally, when responding to the Complaint, the licensee may determine that there are no disputed issues of material fact or that there are disputes of material facts set forth in the Administrative Complaint.

If there are NO disputed issues of material fact, the matter is scheduled for a hearing before the Board. At the hearing prior to imposing discipline on the licensee, the Board will hear any explanation or evidence that is presented to mitigate the penalty to be imposed for the violation of the law.
Should there be disputed issues of material facts, an Administrative Law Judge from the Division of Administrative Hearings will conduct an evidentiary hearing. At the evidentiary hearing, the Prosecuting Attorney will present witnesses and documentary evidence as appropriate to establish the facts and violations of law alleged in the Administrative Complaint. The licensee is also allowed to present witnesses and documents at the hearing. Once the hearing is concluded, the Administrative Law Judge will submit their findings to the Board. The Board reviews the findings of the Administrative Law Judge and enters a Final Order that disciplines the licensee and imposes the costs of prosecution as appropriate.

The fine and costs of prosecution must be paid within 30 days. Should a licensee fail to pay the fine and costs of prosecution within the time allowed, another complaint against the licensee would be filed for a violation of final order. In many cases a violation of final order will result in the suspension or revocation of the license. Should a licensee continue to practice when the license is suspended or revoked, a criminal violation of the law is occurring which subjects the person to incarceration.

Current versions of the Florida laws and rules are available on the internet or through public libraries at: http:www.myflorida.com.

**Self Test: Select T if the statement is TRUE or F is the statement is FALSE.**

1. T F Acupuncture licenses may be denied if the license was revoked, suspended or denied in another state, territory or country.
2. T F A patient is presumed to be incapable of giving informed consent to perform sexual acts with the acupuncturist.
3. T F An acupuncturist may practice under the license of another.

**Answers:** 1.T 2.T 3.F

**Common Pitfalls**
Several common pitfalls encountered by acupuncturists include the following:

1. Failure to comply with the continuing education requirements. All licensees sign an affidavit stating that they are in compliance with all continuing education requirements of the profession upon license renewal. Random audits are conducted after completion of a renewal cycle. This often exposes noncompliance, resulting in disciplinary action.
2. Failure to maintain an active license to practice acupuncture. If your license should lapse and you continue to provide acupuncture services, it is a criminal offense in Florida.
3. Failure to completely reveal criminal or other pertinent history on the application for initial licensure in Florida. Failure to disclose that your license has been revoked, suspended or otherwise acted against in any state can result in the Board refusing to grant you a license. Honesty is always the best policy.
4. Failure of the licensee to notify the Board in a timely manner of a change of address. The renewal information is not forwarded, so you may not fulfill your requirements and you will not be licensed.
5. Failure to make sure that all persons working under you are properly licensed as acupuncturists. An unlicensed person cannot practice under the umbrella of a licensed acupuncturist.

6. Failure to render safe care. If you have committed gross or repeated malpractice, you can be disciplined and possibly lose your license.

7. Failure to report that someone is practicing without an acupuncture license.

8. Failure to advertise properly—claiming that acupuncture can treat or cure a condition when it cannot.

9. Failure to maintain adequate and appropriate sexual boundaries with patients.

10. Failure to use disposable needles and dispose of them properly in OSHA-approved containers.

11. Failure to properly license your office.

12. Failure to practice within the scope of responsibility of an acupuncturist.

Top Ten Tips to Avoid Jeopardizing Your License

1. **Don’t work without a license.** Only actively licensed acupuncturists can practice acupuncture in Florida. This includes practicing without renewing your license. Practicing without an active license is not only a violation of the Practice Act, but also a criminal offense. It is not worth the risk!

2. **Read the fine print at license renewal time.** When you sign your renewal form, you are indicating that you have met all of the continuing education requirements necessary to practice acupuncture. If you are audited and have not met these requirements, you could be putting your license in jeopardy.

3. **Maintain your own continuing education certificates.** Renewing your license without having proof of completing the continuing education requirements could be considered fraud. Make sure you maintain copies of all your certificates to prove you have completed the requirements. **No** proof means—**No** compliance.

4. **No sexual relationship with patients.** The board has a zero tolerance on sexual misconduct. This means you could have your license suspended or even revoked for inappropriate sexual actions. If for some reason you and a patient decide to develop a personal relationship, you should consider dissolving the professional relationship. If the relationship dissolves on a bitter note, it can come back to haunt you.

5. **Know the laws and rules.** If you have questions about regulations, make sure you talk to the right people when getting advice on your business/practice. The board has disciplined licensees who have received bad business/legal advice. For appropriate information, contact the board office, an administrative law attorney, or your professional association for advice. The most current laws can be found on-line at www.leg.state.fl.us.

6. **Stay informed about practice requirements.** The board periodically makes updates for the rules affecting acupuncturists. To stay up-to-date visit the Department of Health’s website on occasion at www.doh-mqaservices.com or the board’s website at www.doh.state.fl.us.

**Self Test:** Select T if the statement is TRUE or F if the statement is FALSE.

1. **T F** Each licensee must complete an HIV/AIDS course each biennium.
2. T F Failure to notify the board of a change of address cannot lead to discipline by the board.
3. T F If a license is suspended or revoked and the licensee continues to practice acupuncture, the licensee may incur a criminal violation and may be subjected to incarceration.

Answers: 1.F 2.F 3.T

Remember, Your License is the Key to your Livelihood. Protect It!

Conclusion
Your license expires every biennium. It is vital that each licensee stay informed as to the legal requirements of practice. Acupuncture laws and rules are extremely important for both new practitioners, seasoned practitioners and for those who move to Florida from another state. Professionals who are aware of these laws and rules and who practice with high ethical standards can protect the public and themselves from harm and, in turn, enhance the field of acupuncture.

Remember, ignorance of the law is not a defense or an excuse!

Acupuncture Law Scenarios
Consider your actions in the following scenarios:

1. You sent in the correct amount for renewal of your acupuncture license, but you neglected to submit proof of HIV/AIDS training. Can you be licensed?
2. Your current mailing address is different from the address on your license. Is it necessary to notify the board if the addresses are different?
3. You neglected to renew your acupuncture license in a timely manner. What happens now?
4. You elected to place your license in inactive status last month. You changed your mind and this month you want to reactivate your license and it is still in the current biennium. Can this be done?
5. Your license has been inactive for 6 years. What do you do to obtain active status?
6. You failed to renew your license in a timely fashion and you failed to apply for inactive status. What happens now?
7. Your husband is on active status with the Army and you have been away with him for a year. Are you still considered active if you did not submit your renewal?
8. You work in three different locations- a physician’s office, a chiropractor’s office, and a massage clinic. Do you need to display your license in each location?
9. You treated a patient and failed to get him to sign an informed consent. Are you guilty of a negligent act?
10. You completed 20 hours of continuing education with 2 hours in Acupuncture Law and 3 hours in HIV/AIDS. Are you in compliance?
11. Your neighbor is practicing acupuncture without a license and you do not report him to the board. Are there grounds for disciplinary action against you?
12. Are you subject to discipline if you fail to allow the department to inspect your facility?
13. Your best friend is advertising acupuncture under a fictitious, unlicensed name. Is she violating FL law?
14. An oriental medicine practitioner from China would like to obtain a license to practice in Florida. Can he be disqualified because he does not have American citizenship?
15. An acupuncturist had his license revoked in GA. Can he practice in FL?
16. Can you lose your license for taking drugs?
17. How many hours of professional ethics are required for renewal?
18. Can a person under the age of 18 be licensed in acupuncture?
19. How many years are required in acupuncture school for applicants to be licensed?
   Is this law changing?
20. How many college credits are required to enter an acupuncture school?
21. Where are written exams offered?
22. Can acupuncturists call themselves doctor?
23. Can an acupuncturist work under another health care provider’s license?
24. Can acupuncturists order blood tests?
25. Are there any exceptions from the renewal requirement?

Answers to Acupuncture Law Scenarios
1. Yes, HIV is no longer needed for relicensure.
2. Yes, the board must be notified of any change of address.
3. You can be disciplined by the board and are subject to a fee.
4. No, you must wait until the next biennial license period.
5. Submit proof of continuing education for each biennium, appear before the board, pay the fee, submit proof that there has been no malpractice and no pending disciplinary actions in any jurisdiction.
6. Delinquent status.
7. Yes, providing you can submit proof of the absence and your spouse’s military status.
8. Yes.
9. Yes.
10. No.
11. Yes, you must report.
12. Yes.
13. Yes.
14. No.
15. No.
16. Yes.
17. 2
18. No, he must be 21.
20. 60.
22. No.
23. No.
24. No.
25. Spouses of military personnel.