

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R156-72**

**Filing ID: 56902**

**Agency Information**

<b>1. Title catchline:</b>	Commerce, Professional Licensing	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E. 300 S.	
<b>City, state:</b>	Salt Lake City UT 84111-2316	
<b>Mailing address:</b>	PO Box 146741	
<b>City, state and zip:</b>	Salt Lake City UT 84114-6741	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Lisa Martin	801-530-7632	lmartin@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

**General Information**

<b>2. Rule or section catchline:</b>
R156-72. Acupuncture Licensing Act Rule
<b>3. Purpose of the new rule or reason for the change:</b>
<p>The Division of Professional Licensing (Division), in collaboration with the Acupuncture Licensing Board is filing these proposed amendments to clarify and update the rule and implement certain requirements in accordance with statutory changes made by H.B. 534 passed during the 2024 General Session.</p> <p>Under Executive Order No. 2021-12, formatting changes are made throughout to streamline licensure pathways and to update the rule consistent with the Rulewriting Manual for Utah and remove duplicate language already present in the Utah Code.</p>
<b>4. Summary of the new rule or change:</b>
<p>The amendment makes the following changes:</p> <p>Section R156-72-101: Consolidates the existing provisions for the rule's title, authority, and relationship to Rule R156-1 into one section.</p> <p>Section R156-72-102: Adds definitions for (a) "BLS-CPR Certification" which is referenced in the rule but was not defined; and (b) "Board" which reflects combination of the Acupuncture Licensing Board and the Board of Massage Therapy into the Board of Massage Therapy and Acupuncture" under H.B. 534.</p> <p>Subsection R156-72-102(1): Updates ACAHM name change.</p> <p>Subsection R156-72-102(9): Updates NCCAOM's name change.</p> <p>Subsection R156-72-302b: Clarifies that a licensed veterinarian may provide direct supervision to a licensed acupuncturist who is receiving animal acupuncture training and education.</p> <p>Subsection R156-72-303(3)(a): Updates the meaning of the NCCAOM's "PDA" from "professional didactic activity" to "professional development activity." This changed is based on the NCCAOM's PDA Handbook and website which use "development" rather than "didactic."</p> <p>The amendment also makes nonsubstantive formatting changing to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.</p>

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>

There is no estimated fiscal impact on any state government budgets. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.

**B) Local governments:**

There is no estimated fiscal impact on any local government budgets. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

There is no estimated fiscal impact on small businesses. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There is no estimated fiscal impact on non-small businesses. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no estimated fiscal impact on any person or group. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There is no estimated impact on any state government budgets. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this regulatory impact analysis.

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Subsection 58-1-106(1)(a)	Section 58-72-101	Subsection 58-1-202(1)(a)
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**Incorporations by Reference Information**

**7. Incorporations by Reference** (if this rule incorporates more than two items by reference, please include additional tables):

**A) This rule adds or updates the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	NCCAOM Code of Ethics
<b>Publisher</b>	National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)
<b>Issue Date</b>	November 2023

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 12/16/2024

**B) A public hearing (optional) will be held:**

<b>Date (mm/dd/yyyy):</b>	<b>Time (hh:mm AM/PM):</b>	<b>Place (physical address or URL):</b>
12/03/2024	9:30 a.m.	160 E. 300 S, 4th floor, Salt Lake City, UT, and also via Google Meet  Google Meet joining info Video call link: <a href="https://meet.google.com/tbe-rxkk-shi">https://meet.google.com/tbe-rxkk-shi</a> Or dial: (US) +1 435-562-1559 PIN: 497 751 028# More phone numbers: <a href="https://tel.meet/tbe-rxkk-shi?pin=4451543203048">https://tel.meet/tbe-rxkk-shi?pin=4451543203048</a>

**9. This rule change MAY become effective on:** 12/23/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mark Steinagel, Division Director	<b>Date:</b>	10/15/2024
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**R156. Commerce, ~~Occupational and~~ Professional Licensing.**

**R156-72. Acupuncture Licensing Act Rule.**

**R156-72-101. Title - Authority - Relationship to Rule 156-1.**

(1) This rule is known as the "Acupuncture Licensing Act Rule".

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 72, Acupuncture Licensing Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-101.

**R156-72-102. Definitions.**

~~[In addition to the definitions in~~ Terms used in this rule are defined in Title 58, Chapter 1, Division of ~~[Occupational and]~~ Professional Licensing Act, and in Title 58, Chapter 72, Acupuncture Licensing Act~~].~~ ~~[the following rule definitions supplement the statutory definitions:]~~ In addition:

(1) ~~["ACAOM"]~~ "ACAHM" means the Accreditation Commission for Acupuncture and ~~[Oriental]~~ Herbal Medicine.

(2) "According to practitioner training" in Subsection 58-72-102(5)(b)(ii) means that the licensee has completed education and training from an educational program accredited or recognized by ~~[ACAOM]~~ ACAHM regarding the recommendation, administration, or provision of dietary guidelines, herbs, supplements, homeopathics, and therapeutic exercise.

(3) "Administration" in Subsection 58-72-102(5)(b)(ii) means the direct application of an herb, homeopathic, or supplement to the body of a patient by:

- (a) ingestion;
- (b) topical application;
- (c) inhalation; or
- (d) point injection therapy~~[-(PII)].~~

(4) "BLS-CPR Certification" means Basic Life Support and Cardiopulmonary Resuscitation Certification.

~~[(4)]~~(5) "Herbs" and "homeopathics" in Subsection 58-72-102(5)(b)(ii) may include:

- (a) vitamins;
- (b) minerals;
- (c) amino acids;
- (d) proteins; ~~and~~ or
- (e) enzymes.

~~[(5)](6)~~ "Insertion of acupuncture needles" in Subsection 58-72-102(5)(a) means a procedure of acupuncture and oriental medicine including myofascial trigger point therapy, intramuscular therapy, perineural injection therapy [~~(-PII)~~], prolotherapy, proprioceptive stimulation, Ashi points, or dry needling techniques.

~~[(6)](7)~~ "Modern research" in Subsection 58-72-102(5)(b)(ii) means practicing according to acupuncture and oriental medicine education and training as recognized through NCCAOM.

~~[(7)](8)~~ "NCCAOM" means the National Certification Commission for [~~the Certification of~~] Acupuncture and Oriental Medicine, formerly known as the National Commission for the Certification of Acupuncturists (NCCA).

#### ~~R156-72-103. Authority - Purpose.~~

~~\_\_\_\_\_ This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 72.~~

#### ~~R156-72-104. Organization - Relationship to Rule R156-1.~~

~~\_\_\_\_\_ The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.]~~

#### **R156-72-302a. Qualifications for Licensure - Certification and Exam Requirements.**

~~[In accordance with]Under~~ Subsections 58-72-302(3) and (4), to meet the requirements for current active certification in acupuncture under guidelines established by NCCAOM~~[7]~~ and the requirements for passing the examination required by the Division, an applicant for licensure as a licensed acupuncturist shall submit documentation of:

- (1) current and active NCCAOM certification; or
- (2) pursuant to Subsection 58-1-302~~[(4)](2) or (3)~~, licensure in good standing as an acupuncturist in any ~~[state, district, or territory of the United States]~~ jurisdiction, for at least one year immediately preceding the application.

#### **R156-72-302b. Qualifications for Licensure - Animal Acupuncture.**

~~[In accordance with]Under~~ Subsections 58-28-307(12)(d) and 58-72-102(5)(b)(iii), to engage in the practice of animal acupuncture, a licensed acupuncturist shall complete 100 hours of animal acupuncture training and education that includes:

- (1) fifty hours of on-~~the-~~job training under the direct or indirect supervision of a licensed veterinarian;
- (2) animal anatomy training; and
- (3) the remaining hours in animal specific continuing education.

#### **R156-72-302c. Informed Consent.**

(1) ~~[In accordance with]Under~~ Subsection 58-72-302(5), to enable patients to give informed consent to treatment, a licensed acupuncturist shall have a patient chart for each patient that includes:

- (a) a written review of symptoms;
- (b) a statement signed by the patient consenting to acupuncture treatment; and
- (c) if the patient is receiving an adjunctive therapy as defined in Subsection 58-72-102(5)~~(b)~~, a written disclosure signed by the patient regarding the licensed acupuncturist's education and training to perform that therapy.

(2) ~~[In accordance with]Under~~ Section 58-72-503, patient records, including records documenting informed consent, shall be maintained for seven years.

#### **R156-72-303. Renewal Cycle - Procedures.**

(1) ~~[In accordance with]Under~~ Subsection 58-1-308(1), the renewal date for the two-year renewal cycle ~~[applicable to]~~for licensees under Title 58, Chapter 72, Acupuncture Licensing Act, is established ~~[by rule]~~in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Sections R156-1-308b through R156-1-308l.

(3) ~~[In accordance with]Under~~ Subsections 58-1-308(3)(b) and 58-72-303(3), a licensee who does not maintain current and active NCCAOM certification shall:

- (a) complete at least 30 continuing education units (CEU) or 30 professional ~~[didactic]~~development activity (PDA) points within the two-year renewal period; and
- (b) maintain current BLS-CPR certification.

#### **R156-72-503. Unprofessional Conduct.**

~~[In accordance with]Under~~ Subsection 58-72-102(6), "unprofessional conduct" includes:

- (1) failing to maintain office, instruments, equipment, appliances, or supplies in a safe and sanitary condition;
- (2) violating Subsection 58-72-303(3) regarding renewal qualifications by:
  - (a) failing to maintain current and active NCCAOM certification;
  - (b) failing to complete all continuing education units (CEUs) required under Subsection R156-72-303(3); or
  - (c) failing to maintain current BLS-CPR certification;
- (3) failing to abide by the NCCAOM Code of Ethics revised ~~[January 1, 2016]~~November 2023, that is ~~[hereby]~~incorporated by reference;
- (4) failing to maintain patient records for a seven-year period;
- (5) recommending, administering, or providing dietary guidelines, herbs, supplements, homeopathics, or therapeutic exercise without having completed the required practitioner training pursuant to Subsections 58-72-102(5)(b)(ii) and ~~[Subsection]~~R156-72-102(2); or
- (6) administering venous injections, immunizations, or controlled substances.

**KEY: acupuncture, licensing**

**Date of Last Change:** [~~March 25, 2021~~2024]

**Notice of Continuation:** September 7, 2021

**Authorizing, and Implemented or Interpreted Law:** 58-72-101; 58-1-106(1)(a); 58-1-202(1)(a)

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