

LC00523

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

A N A C T

**RELATING TO BUSINESSES AND PROFESSIONS -- THE HEALING ACT OF
ACUPUNCTURE**

Introduced By: Senators Ruggerio, DaPonte, Goodwin, McBurney, and Felag

Date Introduced: February 11, 2004

Referred To: Senate Commerce, Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-37.2-2, 5-37.2-12.1, 5-37.2-12.2, 5-37.2-12.3, 5-37.2-12.4, 5-
2 37.2-13, 5-37.2-14, 5-37.2-15, 5-37.2-16, 5-37.2-19 and 5-37.2-20 of the General Laws in
3 Chapter 5-37.2 entitled "The Healing Art of Acupuncture" are hereby amended to read as
4 follows:

5 **5-37.2-2. Definitions --** Unless the context otherwise requires, the words, phrases, and
6 derivatives employed in this chapter have the meanings ascribed to them in this section:

7 (1) "Acupuncture" (a) means the insertion of needles into the human body by piercing
8 ~~the skin of the body, for the purpose of controlling and regulating the flow and balance of energy~~
9 ~~in the body.~~ means a distinct system of primary health care that uses the diagnostic and treatment
10 techniques of oriental medicine, both traditional and modern, for the prevention, correction or
11 treatment of any disease, illness, injury or pain.

12 (b) The acupuncture techniques used for stimulation of certain points on or near the
13 surface of the body include, but are not limited to, insertion of acupuncture needles. Electro-
14 acupuncture, heat therapy-moxibustion, vasopneumatic devices, oriental massage-Tui Na/Shiatsu,
15 Gwa-sha, infrared therapy, Electro therapy.

16 (c) Within the scope of acupuncture and oriental medicine are such methods of therapy
17 as breathing exercises, energetic exercises- Qi Gong, Tai-chi and nutrition including the
18 incorporation of drugless substances and herbs as dietary supplements to promote health pursuant

1 [to industry manufacturing standards.](#)

2 [\(d\) No provision in this section shall preclude other licensed professionals with a](#)
3 [previously defined scope of practice.](#)

4 (2) "Department" means the state department of health.

5 (3) "Doctor of acupuncture" means a person licensed under the provisions of this chapter
6 to practice the art of healing known as acupuncture.

7 (4) "Licensed acupuncture assistant" means a person who assists in the practice of
8 acupuncture under the direct supervision of a person licensed under the provisions of this chapter
9 to practice acupuncture.

10 [\(5\) "Board" means the Board on Acupuncture and Oriental Medicine under the Board of](#)
11 [Licensure and Discipline.](#)

12 **5-37.2-12.1. Examination requirements and issuance of license** -- (a) No person shall
13 be licensed as a doctor of acupuncture unless he or she has passed the examination by the
14 National Commission of Certification of Acupuncture and Oriental Medicine.

15 (b) Before any applicant is eligible for licensure, he or she shall furnish satisfactory
16 proof that he or she:

17 (1) Is a United States citizen or legal alien;

18 (2) Has demonstrated proficiency in the English language [by achieving a score of five](#)
19 [hundred fifty \(550\) on the CASAS test;](#)

20 (3) Is at least ~~twenty-one (21)~~ [twenty-three \(23\)](#) years of age;

21 (4) Is of good moral character;

22 (5) Has completed an accredited program of at least thirty six (36) months and not less
23 than ~~twenty-five hundred (2500)~~ [three thousand \(3,000\) contract](#) hours of training, and has
24 received a certificate or diploma from an ~~institute~~ [institution](#) approved by the National
25 Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine,
26 according to the provisions of this chapter; provided, that this subsection does not apply to
27 anyone licensed to practice under chapter 37 of this title who is qualified to take and pass the test
28 by the National Commission for the Certification of Acupuncture and Oriental Medicine. [As of](#)
29 [January 1, 2006, the minimum requirement for contact training shall not be less than thirty-three](#)
30 [hundred \(3300\) hours; as of January 1, 2008, the minimum requirement for contact training shall](#)
31 [not be less than thirty-six hundred \(3600\) hours; and as of January 1, 2010, the minimum](#)
32 [requirement for contact training shall not be less than four thousand \(4000\) hours.](#)

33 (6) Has completed a clinical internship training that is designated as appropriate by the
34 National Commission for the Certification of Acupuncture and Oriental Medicine; and [has](#)

1 completed four thousand (4,000) hours apprenticeship program supervised by the doctor of
2 acupuncture with at least ten (10) years of experience as a licensed acupuncturist in the state of
3 Rhode Island. The supervisor can take no more than two (2) trainees at a time. A written
4 agreement between the licensed supervisor and trainee must be submitted with the tutorial
5 application to the board of acupuncture and oriental medicine. The direct supervision must be on
6 site.

7 (7) Has three (3) letters of reference from reputable individuals other than relatives, and
8 at least two (2) of which are from licensed or registered doctors of acupuncture.

9 (8) Foreign acupuncture graduates must meet all requirements within this chapter, the
10 transcripts of their training with certified training transcripts in English translation shall be sent
11 directly from the school of original training to the Board on Acupuncture and Oriental Medicine.
12 The transcript shall contain a valid dean or bursar seal.

13 (9) Chiropractors, naturopathic doctors, dentists, physical therapists, physician assistants,
14 podiatrists and other licensed medical providers except for medical doctors and doctors of
15 osteopathy shall meet all the requirements within this chapter and obtain the full license of Doctor
16 of Acupuncture in order to practice acupuncture within this state.

17 (10) For those graduates who do not meet the twenty-nine hundred (2,900) hours
18 requirement; thirty-three hundred (3,300) hours as of January 1, 2006; thirty-six hundred (3,600)
19 hours as of January 1, 2008; four thousand (4,000) hours as of January 1, 2010, and have
20 graduated from an ACAOM (Accreditation Commission of Acupuncture and Oriental Medicine)
21 approved college with at least twenty-five hundred (2,500) hours of training, the
22 apprenticeship/internship training will be offered to meet the above requirements. Designated
23 offices, hospitals and health care facilities will provide the apprenticeship/internship. The
24 department of health, in cooperation with the advisory boards of professional associations, will
25 designate at least five (5) facilities and will establish the requirement for trainees and preceptors.

26 **5-37.2-12.2. Reciprocal licensing requirements --** The ~~health department~~ committee
27 may, at its discretion, issue a license without examination to a doctor of acupuncture who has
28 been licensed, certified, or formally legally recognized as an acupuncturist in any state or territory
29 if all three of the following conditions are met to its satisfaction:

30 (1) The applicant meets the requirements of practice in the state or territory in which the
31 applicant is licensed, certified, or registered as an acupuncturist;

32 (2) The requirements for practice in the state or territory in which the applicant is
33 licensed, certified, or registered as an acupuncturist are at least as stringent as those of this state;
34 and

1 (3) The state or territory in which the applicant is licensed, certified, or legally
2 recognized as an acupuncturist permits a practitioner licensed in this state to practice acupuncture
3 in that jurisdiction.

4 **5-37.2-12.3. Continuing education for acupuncture -- Establishment of standards --**

5 The ~~health department~~ committee shall establish, by regulation, mandatory continuing education
6 requirements for a doctor of acupuncture licensed in this state, including, but not limited to, the
7 following:

8 (1) Each person licensed under this chapter, whether or not residing within this state,
9 shall complete ~~twenty (20)~~ forty (40) hours of continuing education within each annual renewal
10 period, except during the initial ~~annual~~ biannual renewal period.

11 (2) Continuing education hours will be accepted by the ~~department~~ board for course
12 work which has been presented, accepted, or approved by a nationally recognized acupuncture
13 organization or its local chapter, or any accredited school of acupuncture.

14 (3) At the time of license renewal, each licensee is required to attest to the fact of having
15 complied with the requirements in this section. Course descriptions, proof of attendance, or other
16 documentation of completion is retained by the licensee for a minimum of three (3) years and is
17 subject to random audit by the ~~department~~ board. Failure to produce satisfactory documentation
18 of completion upon request by the ~~department~~ board constitutes grounds for disciplinary action
19 under the provisions of this chapter.

20 (4) Each person not obtaining the required number of hours of continuing education may
21 have his or her license renewed for just cause, as determined by the ~~department~~ board, so long as
22 the ~~department~~ board requires that the deficient hours of continuing education, and all unpaid
23 fees, are made up during the following renewal period in addition to the current continuing
24 education requirements for the renewal period. If any doctor of acupuncture fails to make up the
25 deficient hours and complete the subsequent renewal period, or fails to make up unpaid fees, then
26 his or her license shall not be renewed until all fees are paid and all the required hours are
27 completed and documented to the ~~department~~ board.

28 **5-37.2-12.4. Licensure of previously licensed acupuncturists --** (a) Any acupuncturist

29 validly licensed, certified, or registered under prior law of this state is deemed as licensed under
30 the provisions of this chapter.

31 (b) No acupuncturist licensed under this subsection shall accept or perform professional
32 responsibilities which the licensee knows or has reason to know that he or she is not qualified by
33 training, experience, or certification to perform. Violation of this section subjects the licensee to
34 the revocation or suspension of his or her license. The ~~department~~ board shall make regulations

1 on these requirements and grant previously licensed, certified, or registered acupuncturists
2 qualification on a case by case basis.

3 **5-37.2-13. Issuance of license for acupuncture assistant --** An applicant for a license
4 for acupuncture assistant is issued a license by the department if he or she:

5 (1) ~~Has successfully completed a course of study in acupuncture in any college or school~~
6 ~~in any country, territory, province, or state requiring any attendance to thirty-six (36) months;~~ Has
7 successfully completed a practical training of at least three hundred (300) hours under the
8 supervision of the licensed Doctor of Acupuncture according to the regulations established by the
9 committee;

10 (2) ~~Practiced acupuncture for not less than three (3) years; and~~

11 (3) ~~Passes the examination of the department for acupuncture assistant.~~

12 (4) Meet such other requirements as may be established by the committee.

13 **5-37.2-14. Recordation and display of licenses -- Annual registration fee -- Penalties**
14 **for failure to pay fee --** (a) Every person holding a license authorizing him or her to practice

15 acupuncture or to serve as an acupuncture assistant in this state shall record his or her license with
16 the city or town hall in the city or town where his or her office and residence are located. Every
17 licensee upon a change of residence or office shall have his or her certificate recorded in the same
18 manner in the municipality to which he or she has changed.

19 (b) Every license shall be displayed in the office, place of business, or place of
20 employment of the license holder.

21 (c) Every person holding a license shall pay to the department on or before February 1 of
22 each year, the annual registration fee required pursuant to subsection (e). If the holder of a license
23 fails to pay the registration fee his or her license is suspended. The license may be reinstated by
24 payment of the required fee within ninety (90) days after February 1.

25 (d) A license which is suspended for more than three (3) months under the provisions of
26 subsection (c) may be canceled by the board after thirty (30) days notice to the holder of the
27 license.

28 (e) The ~~annual~~ biannual registration fees shall be prescribed by the department and shall
29 not exceed the following amounts:

30 (1) Doctor of acupuncture \$ 500.

31 (2) Licensed acupuncture assistant \$ ~~250.~~ 100.

32 **5-37.2-15. Suspension, revocation, or refusal of license -- Grounds --** The ~~department~~
33 board may either refuse to issue or may suspend or revoke any license for any one or any
34 combination of the following causes:

- 1 (1) Conviction of a felony, conviction of any offense involving moral turpitude, or
2 conviction of a violation of any state or federal law regulating the possession, distribution or use
3 of any controlled substance as defined in section 21-28-1.02, as shown by a certified copy of
4 record of the court;
- 5 (2) The obtaining of, or any attempt to obtain, a license, or practice in the profession for
6 money or any other thing of value, by fraudulent misrepresentations;
- 7 (3) Gross malpractice;
- 8 (4) Advertising by means of knowingly false or deceptive statement;
- 9 (5) Advertising, practicing, or attempting to practice under a name other than one's own;
- 10 (6) Habitual drunkenness or habitual addiction to the use of a controlled substance as
11 defined in section 21-28-1.02;
- 12 (7) Using any false, fraudulent, or forged statement or document, or engaging in any
13 fraudulent, deceitful, dishonest, immoral practice in connection with the licensing requirement of
14 this chapter;
- 15 (8) Sustaining a physical or mental disability which renders further practice dangerous;
- 16 (9) Engaging in any dishonorable, unethical, or unprofessional conduct which may
17 deceive, defraud, or harm the public, or which is unbecoming a person licensed to practice under
18 this chapter;
- 19 (10) Using any false or fraudulent statement in connection with the practice of
20 acupuncture or any branch of acupuncture;
- 21 (11) Violating or attempting to violate, or assisting or abetting the violation of, or
22 conspiring to violate, any provision of this chapter;
- 23 (12) Being adjudicated incompetent or insane;
- 24 (13) Advertising in an unethical or unprofessional manner;
- 25 (14) Obtaining a fee or financial benefit for any person by the use of fraudulent
26 diagnosis, therapy, or treatment;
- 27 (15) Willfully disclosing a privileged communication;
- 28 (16) Failure of a licensee to designate his or her school of practice in the professional use
29 of his or her name by the term "doctor of acupuncture" or "acupuncture assistant", as the case
30 may be;
- 31 (17) Willful violation of the law relating to the health, safety, or welfare of the public, or
32 of the rules and regulations promulgated by the state board of health;
- 33 (18) Administering, dispensing, or prescribing any controlled substance as defined in
34 section 21-28-1.02, except for the prevention, alleviation, or cure of disease or for relief from

1 suffering; and

2 (19) Performing, assisting, or advising in the injection of any liquid silicone substance
3 into the human body.

4 **5-37.2-16. Suspension, revocation, or refusal of license -- Notice and hearing --** The
5 ~~department~~ board shall not refuse to issue, refuse to renew, suspend or revoke any license for any
6 of the causes enumerated in section 5-37.2-15, unless the person accused has been given at least
7 twenty (20) days notice, in writing, of the charge against him or her and a hearing by the
8 department.

9 **5-37.2-19. Seminars not in accordance with department regulations prohibited --**
10 **Penalty --** (a) No seminar concerning acupuncture may be conducted in this state except in
11 accordance with regulations prescribed by the ~~department~~ board for bona fide educational
12 seminars.

13 (b) Any person who violates subsection (a) of this section is guilty of a misdemeanor.

14 **5-37.2-20. Practice without a license a misdemeanor --** A person who represents
15 himself or herself as a practitioner of acupuncture or any branch of acupuncture, and who engages
16 in the practice of acupuncture or any branch of acupuncture in this state without holding a valid
17 license issued by the ~~department~~ board is guilty of a misdemeanor.

18 SECTION 2. Section 5-37.2-7 of the General Laws in Chapter 537.2 entitled "The
19 Healing Art of Acupuncture" is hereby repealed.

20 ~~**5-37.2-7. Powers of department --** For the purpose of conducting its responsibilities
21 under this chapter, the department shall:~~

22 ~~-(1) Engage persons of established reputation and known ability in acupuncture as
23 consultants to the department; the Rhode Island Society of Acupuncture and Oriental Medicine is
24 designated as the appropriate body with which the department shall consult for referral of
25 consultants and other assistance to the department.~~

26 ~~-(2) Maintain an office in the state to carry out the provisions of this chapter;~~

27 ~~-(3) Promulgate rules and regulations, or either of them, not inconsistent with the
28 provisions of this chapter. These rules and regulations may include a code of ethics regulating the
29 professional conduct of licensees; and~~

30 ~~-(4) Compel the attendance of witnesses and the production of evidence by subpoena and
31 administer oaths.~~

32 SECTION 3. Chapter 5-37.2 of the General Laws entitled "The Healing Art of
33 Acupuncture" is hereby amended by adding thereto the following section:

34 **5-37.2-7.1. Board -- Composition -- Tenure -- Removal -- Officers -- Powers and**

1 **Duties.** -- (a) The board shall consist of seven (7) members appointed by the governor, who
2 shall be appointed as follows:

3 (1) Five (5) shall be licensed Doctors of Acupuncture;
4 (2) One (1) shall be a medical doctor; and
5 (3) One (1) shall be a consumer member.

6 (b) Each board member who is a Doctor of Acupuncture shall:
7 (1) For at least seven (7) years immediately before appointment have been engaged in
8 the practice of acupuncture in the state; and
9 (2) Be a person of known reputation and ability in acupuncture.

10 (c) The consumer member shall:
11 (1) Be a member of the general public; and
12 (2) Not be or ever been an acupuncturist or in training to become an acupuncturist.

13 (d) The medical doctor shall, for at least two (2) years immediately before the
14 appointment, have been fully certified in acupuncture and be engaging in the practice of
15 acupuncture.

16 (e) Tenure shall be as follows:
17 (1) The term of each member shall be for three (3) years, except as provided for in
18 subsection (e)(2);
19 (2) Of the five (5) doctors of acupuncture initially appointed to the board by the governor,
20 three (3) of said doctors shall be appointed for a term of one (1) year, and the remaining two (2)
21 said doctors shall be appointed for a term of two (2) years, thereby providing for staggered terms
22 of members; the term of all subsequent appointments of doctors of acupuncture to the board shall
23 be for the three (3) year period provided for in subsection (e)(1) herein;
24 (3) At the end of a term a member continues to serve until a successor is appointed;
25 (4) A member may not serve more than two (2) consecutive full terms.

26 (f) For each vacancy of the professional members the board shall compile a list of names
27 to be submitted to the governor. If a medical doctor or consumer member does not meet the
28 qualifications, another doctor of acupuncture with the above listed qualifications shall be
29 appointed as a board member.

30 (g) The governor may remove a member for incompetence or misconduct.
31 (h) From among its members, the board shall elect officers in a manner that the board
32 determines.

33 (i) The board shall meet at least once every three (3) months, at the times and places it
34 determines.

- 1 (j) A majority of the fully authorized membership of the board is a quorum.
- 2 (k) Each member of the board is entitled to compensation in accordance with the state
3 budget.
- 4 (l) The board may employ a staff in accordance with the state budget.
- 5 (m) Powers and duties of the board are as follows:
- 6 (1) Deny, issue, suspend, and revoke licenses in accordance with the rules adopted by the
7 board and may collect fees, investigate violations of and administer the provisions of this
8 chapter;
- 9 (2) Sponsor or authorize other entities to offer continuing education programs and
10 approve continuing education requirements for license renewal;
- 11 (3) Establish requirements and approve schools of acupuncture within the state. The
12 requirements shall be at least as stringent as the educational requirements within the state;
- 13 (4) Adopt and use a seal to authenticate official documents of the board;
- 14 (5) Expend funds as necessary to carry out the provisions of this chapter from revenues
15 and interest generated by fees collected under this chapter;
- 16 (6) Enforce the provisions of this chapter;
- 17 (7) Conduct hearings upon changes relating to the discipline of licensees, including the
18 denial, suspension or revocation of license in accordance with this chapter and any uniform
19 licensing act;
- 20 (8) Employ agents and attorneys;
- 21 (9) Establish fees;
- 22 (10) Keep a licensee record in which the names, addresses and license numbers of all
23 licensees shall be recorded together with a record of all license renewals, suspension and
24 revocations;
- 25 (11) Keep an accurate record of all its meetings, receipts and disbursements;
- 26 (12) Promulgate the rules and regulations in accordance with this chapter and pertaining
27 to national changes within the practice of acupuncture and oriental medicine.

28 SECTION 4. This act shall take effect upon passage.

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LC00523
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- THE HEALING ACT OF
ACUPUNCTURE

- 1 This act would expand the rules and regulations concerning acupuncture and establish a
- 2 board on acupuncture and oriental medicine.
- 3 This act would take effect upon passage.

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