

2015 -- H 5381

LC001096

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - THE HEALING ART OF ACUPUNCTURE

Introduced By: Representative Cale P. Keable

Date Introduced: February 11, 2015

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 5-37-.2 of the General Laws entitled "The Healing Art
2 of Acupuncture" is hereby amended to read as follows: "The Healing Art of Acupuncture and
3 Oriental Medicine".

4 SECTION 2. Sections 5-37.2-1, 5-37.2-2, 5-37.2-7, 5-37.2-8.1, 5-37.2-9, 5-37.2-10, 5-
5 37.2-12, 5-37.2-12.1, 5-37.2-12.2, 5-37.2-12.3, 5-37.2-12.4, 5-37.2-13, 5-37.2-14, 5-37.2-15, 5-
6 37.2-18, 5-37.2-19, 5-37.2-20, 5-37.2-21 and 5-37.2-22 of the General Laws in Chapter 5-37.2
7 entitled "The Healing Art of Acupuncture" are hereby amended to read as follows:

8 ~~5-37.2-1. Legislative declaration --- Acupuncture. Legislative declaration --~~
9 Acupuncture and Oriental Medicine.-- The practice of the healing art of acupuncture and
10 Oriental medicine and any branch of acupuncture and Oriental medicine is declared to be a
11 learned profession, affecting public safety and welfare and charged with the public interest, and
12 subject to protection and regulation by the state.

13 5-37.2-2. Definitions. -- Unless the context otherwise requires, the words, phrases, and
14 derivatives employed in this chapter have the meanings ascribed to them in this section:

15 (1) "Acupuncture" means the insertion of needles into the human body by piercing the
16 skin of the body, for the purpose of controlling and regulating the flow ~~and-balance~~ of energy and
17 blood in the body.

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

1 (3) "Doctor of ~~acupuncture~~ Acupuncture and Oriental Medicine" means a person
2 licensed under the provisions of this chapter to practice the art of healing known as acupuncture
3 and Oriental medicine.

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

7 (5) "Oriental medicine" means a form of primary health care, based on classical Chinese
8 medical concepts and modern Oriental medical techniques, that employs Chinese medical
9 diagnosis such as pulse, tongue, palpatory and observational diagnosis as well as acupuncture
10 therapies and diagnostic techniques based on newer scientific models for the assessment,
11 treatment, prevention and cure of any disease with the purpose of full health restoration. The
12 techniques and modalities of Oriental Medicine include acupuncture, electro-acupuncture, laser
13 acupuncture, moxibustion (heat therapy), cupping, TDP and infrared lamps, Tuina, Qi Gong,
14 Gwa/sha, thermography, herbal GMP standardized therapy, homeopathy and supplement
15 therapy, chinese dieting therapy, breathing exercises, and life style change consultations.

16 **5-37.2-7. Powers of department.** -- For the purpose of conducting its responsibilities
17 under this chapter, the department shall:

18 (1) Engage persons of established reputation and known ability in acupuncture and
19 Oriental medicine as consultants to the department; the Rhode Island Society of Acupuncture and
20 Oriental Medicine and any other professional association of acupuncture and Oriental medicine
21 are is designated as ~~the~~ appropriate ~~body~~ bodies with which the department shall consult for
22 referral of consultants and other assistance to the department.

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

24 (3) Promulgate rules and regulations, or either of them, not inconsistent with the
25 provisions of this chapter. These rules and regulations may include a code of ethics regulating the
26 professional conduct of licensees; and

27 (4) Compel the attendance of witnesses and the production of evidence by subpoena and
28 administer oaths.

29 **5-37.2-8.1. License required.** -- (a) Unless licensed as a doctor of acupuncture and
30 Oriental medicine under this chapter, or exempt from licensure under the provisions of this
31 chapter, no person shall practice or hold himself or herself out as practicing, or engaging in the
32 practice of, acupuncture and Oriental medicine, either for compensation or gratuitously.

33 (b) This chapter shall not be construed to make unlawful the activities of persons
34 involved in research performed under the auspices of a federal or state regulated research

1 institution.

2 **5-37.2-9. Special licensing.** -- Upon application to the department prior to July 1, 1980,
3 any person who has been an instructor in the art of acupuncture [and Oriental medicine](#) at a
4 domestic or foreign college or university satisfactory to the department for a period of two (2)
5 years and who has had at least ten (10) years experience, shall be granted a license by the
6 department as a doctor of acupuncture [and Oriental medicine](#) without the necessity of taking an
7 examination.

8 **5-37.2-10. Application for licenses -- Fees.** -- An applicant for examination for a license
9 to practice acupuncture [and Oriental medicine](#) or any branch of acupuncture [and Oriental](#)
10 [medicine](#), shall:

11 (1) Submit an application to the department on forms provided by the department;

12 (2) Submit satisfactory evidence that he or she is twenty-one (21) years or older and
13 meets the appropriate education requirements;

14 (3) Pay a fee as set forth in § 23-1-54 and

15 (4) Pay any fees required by the department for an investigation of the applicant or for
16 the services of a translator, if required, to enable the applicant to take the examination.

17 **5-37.2-12. Issuance of licenses to practice acupuncture.** -- The department shall issue a
18 license for the practice of acupuncture [and Oriental medicine](#) where the applicant meets the
19 requirements of § 5-37.2-12.1 except as exempted.

20 **5-37.2-12.1. Examination requirements and issuance of license.** -- (a) No person shall
21 be licensed as a doctor of acupuncture [and Oriental medicine](#) unless he or she has passed the
22 examination by the National Commission of Certification of Acupuncture and Oriental Medicine.

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

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

26 (2) Has demonstrated proficiency in the English language;

27 (3) Is at least twenty one (21) years of age;

28 (4) Is of good moral character;

29 (5) Has completed an accredited program of at least thirty-six (36) months and not less
30 than ~~twenty-five~~ [thirty-five](#) hundred ~~(2500)~~ [\(3500\)](#) hours of training, and has received a certificate
31 or diploma from an institute approved by the ~~National~~ Accreditation Commission for Schools and
32 Colleges of Acupuncture and Oriental Medicine, according to the provisions of this chapter;
33 provided, that this subdivision does not apply to anyone licensed to practice under chapter 37 of
34 this title who is qualified to take and pass the test by the National Commission for the

1 Certification of Acupuncture and Oriental Medicine;

2 (6) Has completed a clinical internship training that is designated as appropriate by the
3 National Commission for the Certification of Acupuncture and Oriental Medicine; and

4 (7) Has three (3) letters of reference from reputable individuals other than relatives, and
5 at least two (2) of which are from licensed or registered doctors of acupuncture [and Oriental](#)
6 [medicine](#).

7 **5-37.2-12.2. Reciprocal licensing requirements.** -- The health department may, at its
8 discretion, issue a license without examination to a doctor of acupuncture [and Oriental medicine](#)
9 who has been licensed, certified, or formally legally recognized as an acupuncturist in any state or
10 territory if all three (3) of the following conditions are met to its satisfaction:

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

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

16 (3) The state or territory in which the applicant is licensed, certified, or legally
17 recognized as an acupuncturist permits a practitioner licensed in this state to practice acupuncture
18 [and Oriental medicine](#) in that jurisdiction.

19 ~~**5-37.2-12.3. Continuing education for acupuncture – Establishment of standards.**~~

20 **Continuing education for acupuncture and Oriental medicine.** --The health department shall
21 establish, by regulation, mandatory continuing education requirements for a doctor of
22 acupuncture [and Oriental medicine](#) licensed in this state, including, but not limited to, the
23 following:

24 (1) Each person licensed under this chapter, whether or not residing within this state,
25 shall complete ~~twenty (20)~~ [forty \(40\)](#) hours of continuing education within each ~~annual~~ [biennial](#)
26 renewal period, except during the initial annual renewal period.

27 (2) Continuing education hours will be accepted by the department for course work
28 which has been presented, accepted, or approved by a nationally recognized acupuncture [and](#)
29 [Oriental medicine](#) organization or its local chapter, or any accredited school of acupuncture [and](#)
30 [Oriental medicine](#).

31 (3) At the time of license renewal, each licensee is required to attest to the fact of having
32 complied with the requirements in this section. Course descriptions, proof of attendance, or other
33 documentation of completion is retained by the licensee for a minimum of three (3) years and is
34 subject to random audit by the department. Failure to produce satisfactory documentation of

1 completion upon request by the department constitutes grounds for disciplinary action under the
2 provisions of this chapter.

3 (4) Each person not obtaining the required number of hours of continuing education may
4 have his or her license renewed for just cause, as determined by the department, so long as the
5 department requires that the deficient hours of continuing education, and all unpaid fees, are
6 made up during the following renewal period in addition to the current continuing education
7 requirements for the renewal period. If any doctor of acupuncture and Oriental medicine fails to
8 make up the deficient hours and complete the subsequent renewal period, or fails to make up
9 unpaid fees, then his or her license shall not be renewed until all fees are paid and all the required
10 hours are completed and documented to the department.

11 ~~5-37.2-12.4. Licensure of previously licensed acupuncturists.~~ **Licensure of**
12 **previously licensed doctors of acupuncture.** -- (a) Any ~~acupuncturist~~ doctor of acupuncture
13 validly licensed, certified, or registered under prior law of this state shall be deemed as licensed
14 under the provisions of this chapter.

15 (b) No ~~acupuncturist~~ doctor of acupuncture licensed under this subsection shall accept or
16 perform professional responsibilities which the licensee knows or has reason to know that he or
17 she is not qualified by training, experience, or certification to perform. Violation of this section
18 subjects the licensee to the revocation or suspension of his or her license. The department shall
19 make regulations on these requirements and grant previously licensed, certified, or registered
20 acupuncturists qualification on a case by case basis.

21 ~~5-37.2-13. Issuance of license for acupuncture assistant.~~ **Issuance of license for**
22 **acupuncture and Oriental medicine assistant.** -- (a) An applicant for a license for acupuncture
23 and Oriental medicine assistant shall be issued a license by the department if he or she:

24 ~~(1) Has successfully completed a course of study in acupuncture in any college or school~~
25 ~~in any country, territory, province, or state requiring any attendance to thirty-six (36) months;~~

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

27 ~~(3) Passes the examination of the department for acupuncture assistant; and~~

28 ~~(4) Pays any fees as set forth in § 23-1-54.~~

29 (1) Completes three hundred twenty (320) hours of clinical training with a Doctor of
30 Acupuncture and Oriental Medicine licensed in Rhode Island as approved by the Rhode Island
31 department of health;

32 (2) Has attained the age of eighteen (18) years old or older;

33 (3) Has obtained a high school diploma or such equivalency;

34 (4) Possess good moral character;

1 (5) Submits three (3) letters of recommendation, one of which must be from a licensed
2 Doctor of Acupuncture and Oriental Medicine; and

3 (6) Pays any fees as set forth in § 23-1-54.

4 (b) An assistant of acupuncture and Oriental medicine may assist in the utilization of
5 other techniques of Oriental medicine as trained and directed by a licensed Doctor of
6 Acupuncture and Oriental Medicine, including moxibustion, suction cups, removal of needles,
7 TDP lamps and Tuina. However, an assistant of acupuncture and Oriental medicine cannot
8 diagnose, write up and deliver treatment plans or perform acupuncture.

9 **5-37.2-14. Recordation and display of licenses -- Annual registration fee -- Penalties**
10 **for failure to pay fee.** -- (a) Every person holding a license authorizing him or her to practice
11 acupuncture and Oriental medicine or to serve as an acupuncture assistant in this state shall
12 record his or her license with the city or town hall in the city or town where his or her office and
13 residence are located. Every licensee upon a change of residence or office shall have his or her
14 certificate recorded in the same manner in the municipality to which he or she has changed.

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

17 (c) Every person holding a license shall pay to the department on or before February 1 of
18 each year, the annual registration fee required pursuant to department rules and regulation. If the
19 holder of a license fails to pay the registration fee his or her license shall be suspended. The
20 license may be reinstated by payment of the required fee within ninety (90) days after February 1.

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

24 (e) [Deleted by P.L. 2007, ch. 73, art. 39, § 11.]

25 **5-37.2-15. Suspension, revocation, or refusal of license -- Grounds.** -- The department
26 may either refuse to issue or may suspend or revoke any license for any one or any combination
27 of the following causes:

28 (1) Conviction of a felony, conviction of any offense involving moral turpitude, or
29 conviction of a violation of any state or federal law regulating the possession, distribution or use
30 of any controlled substance as defined in § 21-28-1.02, as shown by a certified copy of record of
31 the court;

32 (2) The obtaining of, or any attempt to obtain, a license, or practice in the profession for
33 money or any other thing of value, by fraudulent misrepresentations;

34 (3) Gross malpractice;

- 1 (4) Advertising by means of knowingly false or deceptive statement;
- 2 (5) Advertising, practicing, or attempting to practice under a name other than one's own;
- 3 (6) Habitual drunkenness or habitual addiction to the use of a controlled substance as
4 defined in § 21-28-1.02;
- 5 (7) Using any false, fraudulent, or forged statement or document, or engaging in any
6 fraudulent, deceitful, dishonest, immoral practice in connection with the licensing requirement of
7 this chapter;
- 8 (8) Sustaining a physical or mental disability which renders further practice dangerous;
- 9 (9) Engaging in any dishonorable, unethical, or unprofessional conduct which may
10 deceive, defraud, or harm the public, or which is unbecoming a person licensed to practice under
11 this chapter;
- 12 (10) Using any false or fraudulent statement in connection with the practice of
13 acupuncture or any branch of acupuncture;
- 14 (11) Violating or attempting to violate, or assisting or abetting the violation of, or
15 conspiring to violate, any provision of this chapter;
- 16 (12) Being adjudicated incompetent or insane;
- 17 (13) Advertising in an unethical or unprofessional manner;
- 18 (14) Obtaining a fee or financial benefit for any person by the use of fraudulent
19 diagnosis, therapy, or treatment;
- 20 (15) Willfully disclosing a privileged communication;
- 21 (16) Failure of a licensee to designate his or her school of practice in the professional use
22 of his or her name by the term "doctor of acupuncture [and Oriental medicine](#)" or "acupuncture
23 assistant", as the case may be;
- 24 (17) Willful violation of the law relating to the health, safety, or welfare of the public, or
25 of the rules and regulations promulgated by the state board of health;
- 26 (18) Administering, dispensing, or prescribing any controlled substance as defined in §
27 21-28-1.02, except for the prevention, alleviation, or cure of disease or for relief from suffering;
28 and
- 29 (19) Performing, assisting, or advising in the injection of any liquid silicone substance
30 into the human body.

31 **5-37.2-18. Reporting vital statistics.** -- Doctors of acupuncture [and Oriental medicine](#)
32 shall observe and be subject to all state and municipal regulations relative to reporting all births
33 and deaths in all matters pertaining to the public health.

34 **5-37.2-19. Seminars not in accordance with department regulations prohibited** --

1 **Penalty.** -- (a) No seminar concerning acupuncture [and Oriental medicine](#) may be conducted in
2 this state except in accordance with regulations prescribed by the department for bona fide
3 educational seminars.

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

5 **5-37.2-20. Practice without a license a misdemeanor.** -- A person who represents
6 himself or herself as a practitioner of acupuncture [and Oriental medicine](#) or any branch of
7 acupuncture [and Oriental medicine](#), and who engages in the practice of acupuncture [and Oriental](#)
8 [medicine](#) or any branch of acupuncture [and Oriental medicine](#) in this state without holding a valid
9 license issued by the department is guilty of a misdemeanor.

10 **5-37.2-21. Injunctive relief.** -- (a) The department may maintain in any court of
11 competent jurisdiction a suit for an injunction against any person or persons practicing
12 acupuncture [and Oriental medicine](#) or any branch of acupuncture [and Oriental medicine](#) without a
13 license.

14 (b) This injunction:

15 (1) May be issued without proof of actual damage sustained by any person, this
16 provision being understood to be a preventive as well as a punitive measure.

17 (2) Shall not relieve the person from criminal prosecution for practicing without a
18 license.

19 **5-37.2-22. Physicians practicing acupuncture excepted.** -- This chapter shall not be
20 construed ~~to prohibit a physician~~ [to expand or limit the scope of practice authorized for any](#)
21 [healthcare professional](#) from practicing acupuncture as authorized under § 5-37-20.

22 SECTION 2. This act shall take effect upon passage.

=====
LC001096
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - THE HEALING ART OF
ACUPUNCTURE

- 1 This act would include the term Oriental medicine in defining the scope and technique of
- 2 acupuncture.
- 3 This act would take effect upon passage.

=====
LC001096
=====