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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - THE HEALING ART OF
ACUPUNCTURE

Introduced By: Senator Roger Picard

Date Introduced: February 11, 2015

Referred To: Senate Health & Human Services

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, 5-37.2-14, 5-37.2-15, 5-37.2-18, 5-
6 37.2-19, 5-37.2-20 and 5-37.2-21 of the General Laws in Chapter 5-37.2 entitled "The Healing
7 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 (4) "Oriental medicine" means a form of health care, based on classical Chinese medical
8 concepts and modern Oriental medical techniques, that employs Chinese medical diagnosis such
9 as pulse, tongue, palpatory and observational diagnosis as well as acupuncture therapies and
10 diagnostic techniques based on newer scientific models for the assessment, treatment, prevention
11 and cure of any disease with the purpose of full health restoration. The techniques and modalities
12 of Oriental Medicine include acupuncture, electro-acupuncture, laser acupuncture, moxibustion
13 (heat therapy), cupping, TDP and infrared lamps, Tuina, Qi Gong, Gwa/sha, thermography,
14 herbal GMP standardized therapy, homeopathy and supplement therapy, chinese dieting therapy,
15 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 hundred (2500) hours of training, and has received a certificate or diploma from
31 an institute approved by the **National** Accreditation Commission for Schools and Colleges of
32 Acupuncture and Oriental Medicine, according to the provisions of this chapter; provided, that
33 this subdivision does not apply to anyone licensed to practice under chapter 37 of this title who is
34 qualified to take and pass the test by the National Commission for the Certification of

1 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 **5-37.2-14. Recordation and display of licenses -- Annual registration fee -- Penalties**
22 **for failure to pay fee.** -- (a) Every person holding a license authorizing him or her to practice
23 acupuncture [and Oriental medicine](#) or to serve as an acupuncture assistant in this state shall
24 record his or her license with the city or town hall in the city or town where his or her office and
25 residence are located. Every licensee upon a change of residence or office shall have his or her
26 certificate recorded in the same manner in the municipality to which he or she has changed.

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

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

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

1 holder of the license.

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

3 **5-37.2-15. Suspension, revocation, or refusal of license -- Grounds. --** The department
4 may either refuse to issue or may suspend or revoke any license for any one or any combination
5 of the following causes:

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

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

12 (3) Gross malpractice;

13 (4) Advertising by means of knowingly false or deceptive statement;

14 (5) Advertising, practicing, or attempting to practice under a name other than one's own;

15 (6) Habitual drunkenness or habitual addiction to the use of a controlled substance as
16 defined in § 21-28-1.02;

17 (7) Using any false, fraudulent, or forged statement or document, or engaging in any
18 fraudulent, deceitful, dishonest, immoral practice in connection with the licensing requirement of
19 this chapter;

20 (8) Sustaining a physical or mental disability which renders further practice dangerous;

21 (9) Engaging in any dishonorable, unethical, or unprofessional conduct which may
22 deceive, defraud, or harm the public, or which is unbecoming a person licensed to practice under
23 this chapter;

24 (10) Using any false or fraudulent statement in connection with the practice of
25 acupuncture or any branch of acupuncture;

26 (11) Violating or attempting to violate, or assisting or abetting the violation of, or
27 conspiring to violate, any provision of this chapter;

28 (12) Being adjudicated incompetent or insane;

29 (13) Advertising in an unethical or unprofessional manner;

30 (14) Obtaining a fee or financial benefit for any person by the use of fraudulent
31 diagnosis, therapy, or treatment;

32 (15) Willfully disclosing a privileged communication;

33 (16) Failure of a licensee to designate his or her school of practice in the professional use
34 of his or her name by the term "doctor of acupuncture and Oriental medicine" or "~~acupuncture~~

1 ~~assistant", as the case may be;~~

2 (17) Willful violation of the law relating to the health, safety, or welfare of the public, or
3 of the rules and regulations promulgated by the state board of health;

4 (18) Administering, dispensing, or prescribing any controlled substance as defined in §
5 21-28-1.02, except for the prevention, alleviation, or cure of disease or for relief from suffering;
6 and

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

9 **5-37.2-18. Reporting vital statistics. --** Doctors of acupuncture [and Oriental medicine](#)
10 shall observe and be subject to all state and municipal regulations relative to reporting all births
11 and deaths in all matters pertaining to the public health.

12 **5-37.2-19. Seminars not in accordance with department regulations prohibited --**
13 **Penalty. --** (a) No seminar concerning acupuncture [and Oriental medicine](#) may be conducted in
14 this state except in accordance with regulations prescribed by the department for bona fide
15 educational seminars.

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

17 **5-37.2-20. Practice without a license a misdemeanor. --** A person who represents
18 himself or herself as a practitioner of acupuncture [and Oriental medicine](#) or any branch of
19 acupuncture [and Oriental medicine](#), and who engages in the practice of acupuncture [and Oriental](#)
20 [medicine](#) or any branch of acupuncture [and Oriental medicine](#) in this state without holding a valid
21 license issued by the department is guilty of a misdemeanor.

22 **5-37.2-21. Injunctive relief. --** (a) The department may maintain in any court of
23 competent jurisdiction a suit for an injunction against any person or persons practicing
24 acupuncture [and Oriental medicine](#) or any branch of acupuncture [and Oriental medicine](#) without a
25 license.

26 (b) This injunction:

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

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

31 SECTION 3. Section 5-37.2-13 of the General Laws in Chapter 5-37.2 entitled "The
32 Healing Art of Acupuncture" is hereby repealed.

33 ~~**5-37.2-13. Issuance of license for acupuncture assistant. --** An applicant for a license
34 for acupuncture assistant shall be issued a license by the department if he or she:~~

- 1 ~~(1) Has successfully completed a course of study in acupuncture in any college or school~~
- 2 ~~in any country, territory, province, or state requiring any attendance to thirty-six (36) months;~~
- 3 ~~(2) Practiced acupuncture for not less than three (3) years;~~
- 4 ~~(3) Passes the examination of the department for acupuncture assistant; and~~
- 5 ~~(4) Pays any fees as set forth in § 23-1-54.~~

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

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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.

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