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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - THE HEALING ART OF
ACUPUNCTURE AND ORIENTAL MEDICINE - NEW TITLE

Introduced By: Senator Joshua Miller

Date Introduced: January 31, 2019

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 and Oriental Medicine" is hereby amended to read as follows:

3 ~~CHAPTER 5-37.2~~

4 ~~The Healing Art of Acupuncture and Oriental Medicine~~

5 CHAPTER 5-37.2

6 THE HEALING ART OF ACUPUNCTURE AND EAST ASIAN MEDICINE

7 SECTION 2. Sections 5-37.2-1, 5-37.2-1.1, 5-37.2-2, 5-37.2-7, 5-37.2-8.1, 5-37.2-9, 5-
8 37.2-10, 5-37.2-12, 5-37.2-12.1, 5-37.2-12.2, 5-37.2-12.3, 5-37.2-14, 5-37.2-15, 5-37.2-18, 5-
9 37.2-19, 5-37.2-20 and 5-37.2-21 of the General Laws in Chapter 5-37.2 entitled "The Healing
10 Art of Acupuncture and Oriental Medicine" are hereby amended to read as follows:

11 **5-37.2-1. Legislative declaration -- Acupuncture and Oriental Medicine.**

12 The practice of the healing art of acupuncture and ~~Oriental~~ East Asian medicine, and any
13 branch of acupuncture and ~~Oriental~~ East Asian medicine, is declared to be a learned profession,
14 affecting public safety and welfare and charged with the public interest, and subject to protection
15 and regulation by the state.

16 **5-37.2-1.1. Board of acupuncture and Oriental medicine. Board of acupuncture and**
17 **East Asian medicine.**

18 (a) The director of the department shall appoint a board of acupuncture and ~~Oriental~~ East

1 [Asian](#) medicine. The board shall consist of five (5) members, all of whom shall be residents of the
2 state, four (4) of whom shall be doctors of acupuncture and ~~Oriental~~ [East Asian](#) medicine licensed
3 by the department and engaged in the practice of acupuncture and ~~Oriental~~ [East Asian](#) medicine
4 in the state for at least five (5) years prior to their appointment, and there shall be one public
5 member. The members shall be appointed for terms of three (3) years; each member may serve a
6 maximum of two (2) consecutive, full terms. No member of the board of acupuncture and
7 ~~Oriental~~ [East Asian](#) medicine shall receive compensation for his or her attendance at meetings of
8 the board.

9 (b) The director of health may remove any member from the board for neglect of any
10 duty required by law or for any incompetency, unprofessional, or dishonorable conduct.
11 Vacancies created by voluntary resignation or removal by the director of health shall be filled in
12 the same manner as the original appointment was made for the remainder of the term.

13 **5-37.2-2. Definitions.**

14 Unless the context otherwise requires, the words, phrases, and derivatives employed in
15 this chapter have the meanings ascribed to them in this section:

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

19 (2) "Acupuncture and East Asian medicine" means a form of health care, with a
20 foundation in classical Chinese medical concepts and theory, that employs Chinese medical
21 diagnostic methods such as pulse, tongue, palpatory and observational diagnosis, acupuncture and
22 adjunct therapies for the promotion, maintenance or restoration of health, and the treatment or
23 prevention of any ailment. The techniques and modalities of acupuncture and East Asian
24 medicine may include acupuncture, electro-acupuncture, laser acupuncture, moxibustion (heat
25 therapy), cupping, TDP and infrared lamps, Tuina, Qi Gong, Gwa/sha, Chinese herbal medicine,
26 homeopathy and supplemental therapy, Chinese dietary therapy, breathing exercises, and life-
27 style changing consultations.

28 (3) "Auricular acupuncture technician" means a qualified individual, not licensed as an
29 acupuncturist, who is certified to practice auricular acupuncture using a standardized protocol
30 developed by the National Acupuncture Detox Association (NADA) for the treatment of
31 addictions, mental and behavioral health, disaster relief, and emotional trauma. Auricular
32 acupuncture specialist training is that which is based on the program developed by NADA, and is
33 delivered by NADA, or equivalent.

34 ~~(2)~~(4) "Department" means the state department of health.

1 ~~(3)~~(5) "Doctor of Acupuncture and ~~Oriental~~ East Asian Medicine" means a person
2 licensed under the provisions of this chapter to practice the art of healing known as acupuncture
3 and ~~Oriental~~ East Asian medicine.

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

13 (6) "Doctor of Acupuncture" means a person licensed under the provisions of this chapter
14 practice the art of healing known as acupuncture.

15 (7) "General Supervision" includes, but is not limited to being available by phone or
16 other electronic means during business hours.

17 (8) "Qualified individual" means a licensed health care professional, recovery coach, peer
18 counselor, or a person trained and certified in acudetox. A qualified individual is required to be
19 under general supervision of a licensed acupuncturist.

20 **5-37.2-7. Powers of department.**

21 For the purpose of conducting its responsibilities under this chapter, the department shall:

22 (1) Engage persons of established reputation and known ability in acupuncture and
23 ~~Oriental~~ East Asian medicine as consultants to the department; the Rhode Island Society of
24 Acupuncture and Oriental Medicine and any other professional association of acupuncture and
25 ~~Oriental~~ East Asian medicine are designated as appropriate bodies with which the department
26 shall consult for referral of consultants and other assistance to the department.

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

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

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

33 **5-37.2-8.1. License required.**

34 (a) Unless licensed as a doctor of acupuncture and ~~Oriental~~ East Asian medicine under

1 this chapter, or exempt from licensure under the provisions of this chapter, no person shall
2 practice or hold himself or herself out as practicing, or engaging in the practice of, acupuncture
3 and ~~Oriental~~ East Asian medicine, either for compensation or gratuitously.

4 (b) This chapter shall not be construed to make unlawful the activities of persons
5 involved in research performed under the auspices of a federal- or state-regulated research
6 institution.

7 **5-37.2-9. Special licensing.**

8 (a) Upon application to the department prior to July 1, 1980, any person who has been an
9 instructor in the art of acupuncture ~~and Oriental~~ or acupuncture and East Asian medicine at a
10 domestic or foreign college or university satisfactory to the department for a period of two (2)
11 years and who has had at least ten (10) years experience, shall be granted a license by the
12 department as a doctor of acupuncture ~~and Oriental~~ or doctor of acupuncture and East Asian
13 medicine without the necessity of taking an examination.

14 (b) An acupuncturist licensed to practice acupuncture in another jurisdiction may perform
15 acupuncture and East Asian medicine while teaching or demonstrating or providing acupuncture
16 in connection with teaching or participating in an educational seminar in Rhode Island. Any
17 exemption under this subsection shall not exceed sixty (60) days cumulatively in a calendar year.

18 (c) An auricular acupuncture technician must be a qualified individual as defined in § 5-
19 37.2-2. Any individual performing auricular acudetox shall not use the title "acupuncuturist",
20 "doctor of acupuncture" or "doctor of acupuncture and East Asian medicine", as defined in § 5-
21 37.2-2, or otherwise represent himself or herself as an acupuncture professional, and shall not
22 perform acupuncture outside of the scope of the auricular acudetox procedure. Applicants for an
23 auricular acupuncture technician license shall submit to the department:

24 (i) A complete and legible application form;

25 (ii) Payment of the fees set by the board; and

26 (iii) Evidence of completion of NADA certification training or an equivalent training
27 certificate.

28 (d) Nothing in this chapter is intended to limit, interfere with, or prevent a certified
29 auricular acupuncture technician from practicing within the scope of their certification.

30 **5-37.2-10. Application for licenses -- Fees.**

31 An applicant for examination for a license to practice acupuncture and ~~Oriental~~ East
32 Asian medicine or any branch of acupuncture and ~~Oriental~~ East Asian medicine shall:

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

34 (2) Submit satisfactory evidence that he or she is twenty-one (21) years or older and

1 meets the appropriate education requirements;

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

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

5 **5-37.2-12. Issuance of licenses to practice acupuncture.**

6 The department shall issue a license for the practice of acupuncture and ~~Oriental~~ East
7 Asian medicine where the applicant meets the requirements of § 5-37.2-12.1 except as exempted.

8 **5-37.2-12.1. Examination requirements and issuance of license.**

9 (a) No person shall be licensed as a doctor of acupuncture and ~~Oriental~~ East Asian
10 medicine unless he or she has passed the examination by the National Certification Commission
11 for Acupuncture and Oriental Medicine or ~~successor entity~~ equivalent, and has completed herbal
12 training according to competencies as set by Accreditation Commission for Acupuncture and
13 Oriental Medicine, or demonstrated that they are qualified by training, experience, or
14 certification.

15 (b) No person shall be licensed as a Doctor of Acupuncture unless they have passed the
16 examination by the National Certification Commission for Acupuncture and Oriental Medicine or
17 equivalent.

18 ~~(b)~~(c) Before any applicant is eligible for licensure, he or she shall furnish satisfactory
19 proof that he or she:

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

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

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

23 (4) Is of good moral character;

24 (5) Has completed an accredited program of ~~at least thirty six (36) months and~~ not less
25 than ~~twenty five hundred (2,500)~~ nineteen hundred (1,900) hours of training and has received a
26 certificate or diploma from an institute approved by the Accreditation Commission for ~~Schools~~
27 ~~and Colleges of~~ Acupuncture and Oriental Medicine, or equivalent according to the provisions of
28 this chapter; provided, that this subdivision does not apply to anyone licensed to practice under
29 chapter 37 of this title who is qualified to take and pass the test by the ~~National Commission for~~
30 ~~the Certification of Acupuncture and Oriental Medicine~~ National Certification Commission for
31 Acupuncture and Oriental Medicine, or equivalent;

32 (6) Has completed a clinical internship training that is designated as appropriate by the
33 ~~National Commission for the Certification of Acupuncture and Oriental Medicine~~ Accreditation
34 Commission for the Schools and Colleges of Acupuncture and Oriental Medicine; and

1 (7) Has ~~three (3)~~ two (2) letters of reference from reputable individuals other than
2 relatives ~~and at least two (2)~~, one of which ~~are~~ is from a licensed or registered ~~doctors~~ doctor of
3 acupuncture ~~and Oriental medicine~~ or doctor of acupuncture and East Asian medicine.

4 **5-37.2-12.2. Reciprocal licensing requirements.**

5 The health department may, at its discretion, issue a license without examination ~~to~~ as a
6 doctor of acupuncture or doctor of acupuncture and ~~Oriental~~ East Asian medicine to a person who
7 has been licensed, certified, or formally legally recognized as an acupuncturist in any state or
8 territory. ~~if all three (3) of the following conditions are met to its satisfaction:~~

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

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

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

17 **5-37.2-12.3. ~~Continuing education for acupuncture and Oriental medicine.~~**

18 **Continuing education for acupuncture and East Asian medicine.**

19 The health department shall establish, by regulation, mandatory continuing education
20 requirements for a doctor of acupuncture and ~~Oriental~~ East Asian medicine licensed in this state,
21 including, but not limited to, the following:

22 (1) Each person licensed under this chapter, whether or not residing within this state,
23 shall complete forty (40) hours of continuing education within each biennial renewal period,
24 except during the initial annual renewal period.

25 (2) Continuing education hours will be accepted by the department for course work that
26 have been presented, accepted, or approved by a nationally recognized acupuncture and Oriental
27 medicine organization or its local chapter, or any accredited school of acupuncture and Oriental
28 medicine.

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

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

9 **5-37.2-14. Recordation and display of licenses -- Annual registration fee -- Penalties**
10 **for failure to pay fee.**

11 (a) Every person holding a license authorizing him or her to practice acupuncture and
12 ~~Oriental~~ East Asian medicine in this state shall record his or her license with the city or town hall
13 in the city or town where his or her office and residence are located. Every licensee upon a
14 change of residence or office shall have his or her certificate recorded in the same manner in the
15 municipality to which he or she has changed.

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

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

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

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

26 **5-37.2-15. Suspension, revocation, or refusal of license -- Grounds.**

27 The department may either refuse to issue or may suspend or revoke any license for any
28 one or any combination of the following causes:

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

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

- 1 (3) Gross malpractice;
- 2 (4) Advertising by means of knowingly false or deceptive statement;
- 3 (5) Advertising, practicing, or attempting to practice under a name other than one's own;
- 4 (6) Habitual drunkenness or habitual addiction to the use of a controlled substance as
5 defined in § 21-28-1.02;
- 6 (7) Using any false, fraudulent, or forged statement or document, or engaging in any
7 fraudulent, deceitful, dishonest, immoral practice in connection with the licensing requirement of
8 this chapter;
- 9 (8) Sustaining a physical or mental disability that renders further practice dangerous;
- 10 (9) Engaging in any dishonorable, unethical, or unprofessional conduct that may deceive,
11 defraud, or harm the public, or that is unbecoming a person licensed to practice under this
12 chapter;
- 13 (10) Using any false or fraudulent statement in connection with the practice of
14 acupuncture or any branch of acupuncture;
- 15 (11) Violating, or attempting to violate, or assisting or abetting the violation of, or
16 conspiring to violate, any provision of this chapter;
- 17 (12) Being adjudicated incompetent or insane;
- 18 (13) Advertising in an unethical or unprofessional manner;
- 19 (14) Obtaining a fee or financial benefit for any person by the use of fraudulent diagnosis,
20 therapy, or treatment;
- 21 (15) Willfully disclosing a privileged communication;
- 22 (16) Failure of a licensee to designate his or her school of practice in the professional use
23 of his or her name by the term "doctor of acupuncture and ~~Oriental~~ [East Asian](#) medicine";
- 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.**

32 Doctors of acupuncture and ~~Oriental~~ [East Asian](#) medicine shall observe and be subject to
33 all state and municipal regulations relative to reporting all births and deaths in all matters
34 pertaining to the public health.

1 **5-37.2-19. Seminars not in accordance with department regulations prohibited --**

2 **Penalty.**

3 (a) No seminar concerning acupuncture and ~~Oriental~~ East Asian medicine may be
4 conducted in this state except in accordance with regulations prescribed by the department for
5 bona fide educational seminars.

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

7 **5-37.2-20. Practice without a license a misdemeanor.**

8 A person who represents himself or herself as a practitioner of acupuncture and ~~Oriental~~
9 East Asian medicine, or any branch of acupuncture and ~~Oriental~~ East Asian medicine, and who
10 engages in the practice of acupuncture and ~~Oriental~~ East Asian medicine, or any branch of
11 acupuncture and ~~Oriental~~ East Asian medicine, in this state without holding a valid license issued
12 by the department is guilty of a misdemeanor.

13 **5-37.2-21. Injunctive relief.**

14 (a) The department may maintain in any court of competent jurisdiction a suit for an
15 injunction against any person or persons practicing acupuncture and ~~Oriental~~ East Asian
16 medicine, or any branch of acupuncture and ~~Oriental~~ East Asian medicine, without a license.

17 (b) This injunction:

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

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

21 SECTION 3. Chapter 5-37.2 of the General Laws entitled "The Healing Art of
22 Acupuncture and Oriental Medicine" is hereby amended by adding thereto the following section:

23 **5-37.2-24. Meaning of terms in existing laws.**

24 When in any law, resolution, document, record, instrument, proceeding, or other place the
25 words "Oriental medicine" as applied in this chapter, shall be construed to mean "East Asian
26 medicine".

27 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 AND ORIENTAL MEDICINE - NEW TITLE

1 This act would change the title of chapter 5-37.2 and throughout, replacing the words
2 "Oriental medicine" with "East Asian medicine" and would allow individuals who are otherwise
3 certified, to practice the art of acupuncture and East Asian medicine using Chinese medical
4 diagnostic methods.

5 This act would take effect upon passage.

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