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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **3593**

02/17/2022

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The bill was read for the first time and referred to the Committee on Health Finance and Policy

- 1.1 A bill for an act
- 1.2 relating to health occupations; modifying requirements and scope of practice for
- 1.3 licensed acupuncture practitioners; amending Minnesota Statutes 2020, sections
- 1.4 147B.01, subdivisions 3, 4, 14, by adding subdivisions; 147B.03, subdivisions 2,
- 1.5 3; 147B.05, subdivision 1; 147B.06, subdivisions 1, 4, 5, 6; repealing Minnesota
- 1.6 Statutes 2020, section 147B.01, subdivision 18.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2020, section 147B.01, is amended by adding a subdivision
- 1.9 to read:
- 1.10 Subd. 2a. **Acupuncture.** "Acupuncture" means a treatment technique that uses modern
- 1.11 and traditional medical methods of diagnosis and treatment, including the insertion of
- 1.12 acupuncture needles through the skin and the use of other biophysical methods of acupuncture
- 1.13 point stimulation, such as the use of heat, massage or manual therapy techniques, or electrical
- 1.14 stimulation. Acupuncture includes but is not limited to therapies termed "dry needling,"
- 1.15 "trigger point therapy," "intramuscular therapy," "auricular detox treatment," and similar
- 1.16 terms referring to the insertion of needles past the skin for pain management, disease or
- 1.17 symptom modification, or other related treatments.
- 1.18 Sec. 2. Minnesota Statutes 2020, section 147B.01, subdivision 3, is amended to read:
- 1.19 Subd. 3. **Acupuncture and herbal medicine practice.** "Acupuncture and herbal medicine
- 1.20 practice" means a comprehensive system of primary health care ~~using Oriental medical~~
- 1.21 ~~theory and its unique methods of diagnosis and treatment~~ that uses traditional and modern
- 1.22 methods of diagnosis and treatment techniques. The practice may also be termed "traditional
- 1.23 Chinese medicine," "East Asian medicine," or "acupuncture medicine." Its treatment

techniques include ~~the insertion of acupuncture needles through the skin and the use of other biophysical methods of acupuncture point stimulation, including the use of heat, Oriental massage techniques, electrical stimulation, herbal supplemental therapies, dietary guidelines, breathing techniques, and exercise based on Oriental medical principles~~ but are not limited to acupuncture, herbal therapies, cupping, dermal friction, dietary and nutrition therapies, mind-body exercises, Tuina mobilization, and other similar modalities.

Sec. 3. Minnesota Statutes 2020, section 147B.01, subdivision 4, is amended to read:

Subd. 4. **Acupuncture needle.** "Acupuncture needle" means a needle designed exclusively for ~~acupuncture~~ the purposes of insertion past the skin to alleviate pain, provide symptom relief, and modulate disease processes. It has a solid core, with a tapered point, and is 0.12 mm to 0.45 mm in thickness. It is constructed of stainless steel, gold, silver, or other board-approved materials as long as the materials can be sterilized according to recommendations of the National Centers for Disease Control and Prevention.

Sec. 4. Minnesota Statutes 2020, section 147B.01, is amended by adding a subdivision to read:

Subd. 11a. **Diagnosis.** "Diagnosis" means the physical, clinical, and laboratory examination of the patient and the use of diagnostic services for diagnostic purposes within the scope of acupuncture and herbal medicine practice.

Sec. 5. Minnesota Statutes 2020, section 147B.01, is amended by adding a subdivision to read:

Subd. 11b. **Diagnostic services and testing.** "Diagnostic services and testing" means clinical, physical, laboratory, and other diagnostic measures, including diagnostic imaging, that may be necessary to determine the presence or absence of a condition, deficiency, deformity, abnormality, or disease as a basis for evaluating a health concern, diagnosis, differential diagnosis, treatment, further examination, or referral.

Sec. 6. Minnesota Statutes 2020, section 147B.01, subdivision 14, is amended to read:

Subd. 14. **Herbal therapies or herbal medicine.** "Herbal therapies" or "herbal medicine" are means the use of herbs and patent herbal remedies as supplements as part of the treatment plan of the patient.

3.1 Sec. 7. Minnesota Statutes 2020, section 147B.01, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 17a. **Tuina mobilization.** "Tuina mobilization" means a manual therapy technique
3.4 that fosters movement and promotes alignment in stagnant tissues and joints based on
3.5 acupuncture medicine concepts and modern research.

3.6 Sec. 8. Minnesota Statutes 2020, section 147B.03, subdivision 2, is amended to read:

3.7 Subd. 2. **Board approval.** The board shall approve a continuing education program if
3.8 the program meets the following requirements:

3.9 (1) it directly relates to the practice of acupuncture;

3.10 (2) each member of the faculty shows expertise in the subject matter by holding a degree
3.11 or certificate from an educational institution, has verifiable experience in ~~traditional Oriental~~
3.12 the practice of acupuncture and herbal medicine, or has special training in the subject area;

3.13 (3) the program lasts at least one contact hour;

3.14 (4) there are specific written objectives describing the goals of the program for the
3.15 participants; and

3.16 (5) the program sponsor maintains attendance records for four years.

3.17 Sec. 9. Minnesota Statutes 2020, section 147B.03, subdivision 3, is amended to read:

3.18 Subd. 3. **Continuing education topics.** (a) Continuing education program topics may
3.19 include; but are not limited to, ~~Oriental medical~~ acupuncture and herbal medicine theory
3.20 and techniques including ~~Oriental~~ massage; ~~Oriental~~ nutrition; ~~Oriental~~ herbology and diet
3.21 therapy; ~~Oriental~~ exercise; ~~western~~ sciences such as anatomy, physiology, biochemistry,
3.22 microbiology, psychology, ~~nutrition~~, and history of medicine; and medical terminology or
3.23 coding.

3.24 (b) Practice management courses are excluded under this section.

3.25 Sec. 10. Minnesota Statutes 2020, section 147B.05, subdivision 1, is amended to read:

3.26 Subdivision 1. **Creation.** The advisory council to the Board of Medical Practice for
3.27 acupuncture consists of seven members appointed by the board to three-year terms. Four
3.28 members must be ~~licensed~~ acupuncture practitioners licensed in Minnesota, one member
3.29 must be a licensed physician or osteopathic physician who also practices acupuncture, one
3.30 member must be a licensed chiropractor who is NCCAOM certified, and one member must

4.1 be a member of the public who has received acupuncture treatment as a primary therapy
4.2 from a NCCAOM certified acupuncturist.

4.3 Sec. 11. Minnesota Statutes 2020, section 147B.06, subdivision 1, is amended to read:

4.4 Subdivision 1. **Practice standards.** (a) Before treatment of a patient, an acupuncture
4.5 practitioner shall ask whether the patient has been examined by a licensed physician or other
4.6 professional, as defined by section 145.61, subdivision 2, with regard to the patient's illness
4.7 or injury, and shall review the diagnosis as reported.

4.8 (b) The practitioner shall obtain informed consent from the patient, after advising the
4.9 patient of the following information which must be supplied to the patient in writing before
4.10 or at the time of the initial visit:

4.11 (1) the practitioner's qualifications including:

4.12 (i) education;

4.13 (ii) license information; and

4.14 (iii) outline of the scope of practice of acupuncturists in Minnesota; and

4.15 (2) side effects which may include the following:

4.16 (i) some pain in the treatment area;

4.17 (ii) minor bruising;

4.18 (iii) infection;

4.19 (iv) needle sickness; or

4.20 (v) broken needles.

4.21 ~~(c) The practitioner shall obtain acknowledgment by the patient in writing that the patient~~
4.22 ~~has been advised to consult with the patient's primary care physician about the acupuncture~~
4.23 ~~treatment if the patient circumstances warrant or the patient chooses to do so.~~

4.24 ~~(d)~~ (c) The practitioner shall inquire whether the patient has a pacemaker or bleeding
4.25 disorder.

4.26 Sec. 12. Minnesota Statutes 2020, section 147B.06, subdivision 4, is amended to read:

4.27 Subd. 4. **Scope of practice.** The scope of practice of acupuncture and herbal medicine
4.28 includes, but is not limited to, the following:

5.1 ~~(1) using Oriental medical theory to assess and diagnose a patient; evaluation,~~
5.2 management, and treatment services using methods and techniques described in section
5.3 147B.01, subdivisions 2a, 3, and 14;

5.4 ~~(2) using Oriental medical theory to develop a plan to treat a patient. The treatment~~
5.5 ~~techniques that may be chosen include:~~ diagnostic examination, testing, and procedures,
5.6 including diagnostic imaging, laboratory, or other diagnostic tests, as described in section
5.7 147B.01;

5.8 ~~(i) insertion of sterile acupuncture needles through the skin;~~

5.9 ~~(ii) acupuncture stimulation including, but not limited to, electrical stimulation or the~~
5.10 ~~application of heat;~~

5.11 ~~(iii) cupping;~~

5.12 ~~(iv) dermal friction;~~

5.13 ~~(v) acupressure;~~

5.14 ~~(vi) herbal therapies;~~

5.15 ~~(vii) dietary counseling based on traditional Chinese medical principles;~~

5.16 ~~(viii) breathing techniques;~~

5.17 ~~(ix) exercise according to Oriental medical principles; or~~

5.18 ~~(x) Oriental massage.~~

5.19 (3) the stimulation of acupuncture points, areas of the body, or substances in the body
5.20 using acupuncture needles, heat, cold, infrared and ultraviolet light, lasers, sound, vibration,
5.21 pressure, magnetism, electricity, electromagnetic energy, bleeding, or suction;

5.22 (4) the use of physical medicine treatments, procedures, and devices, including cupping,
5.23 dermal friction, acupressure, massage, or Tuina mobilization;

5.24 (5) the use of therapeutic exercises, breathing techniques, meditation, and devices that
5.25 use heat, cold, color, infrared and ultraviolet light, lasers, sound, vibration, pressure,
5.26 magnetism, electricity, and electromagnetic energy for therapeutic purposes;

5.27 (6) dietary and nutritional counseling and the prescription or administration of food,
5.28 beverages, and dietary supplements for therapeutic purposes, based on acupuncture and
5.29 herbal medicine;

5.30 (7) counseling and education to promote physical, emotional, and spiritual lifestyle
5.31 balance, based on acupuncture and herbal medicine principles; and

(8) injection therapy, including the injection of sterile and prepared herbal products, vitamins, minerals, and homeopathic or other substances that are prepared for injection via nonintravenous hypodermic needles to acupuncture points for pain or symptom management.
Prior to initiating injection therapy services, an acupuncturist must provide proof to the board that the acupuncturist has completed the training required for injection therapy.

Sec. 13. Minnesota Statutes 2020, section 147B.06, subdivision 5, is amended to read:

Subd. 5. **Patient records.** An acupuncturist shall maintain a patient record for each patient treated, including:

(1) a copy of the informed consent;

(2) evidence of a patient interview concerning the patient's medical history and current physical condition;

(3) evidence of ~~a traditional acupuncture~~ an examination and diagnosis within the scope of practice of acupuncture and herbal medicine;

(4) record of the treatment including points treated; and

(5) evidence of evaluation and instructions given to the patient.

Sec. 14. Minnesota Statutes 2020, section 147B.06, subdivision 6, is amended to read:

Subd. 6. **Referral to other health care practitioners.** Referral to other health care practitioners is required when an acupuncturist practitioner sees patients with potentially serious disorders including, but not limited to:

(1) cardiac conditions including uncontrolled hypertension;

(2) acute, severe abdominal pain;

(3) acute, undiagnosed neurological changes;

(4) unexplained weight loss or gain in excess of 15 percent of the body weight in less than a three-month period;

(5) suspected fracture or dislocation;

(6) suspected systemic infections;

(7) any serious undiagnosed hemorrhagic disorder; and

(8) acute respiratory distress without previous history.

7.1 ~~The acupuncturist shall request a consultation or written diagnosis from a licensed~~
7.2 ~~physician for patients with potentially serious disorders.~~

7.3 Sec. 15. **REPEALER.**

7.4 Minnesota Statutes 2020, section 147B.01, subdivision 18, is repealed.

147B.01 DEFINITIONS.

Subd. 18. **Oriental medicine.** "Oriental medicine" means a system of healing arts that perceives the circulation and balance of energy in the body as being fundamental to the well-being of the individual. It implements the theory through specialized methods of analyzing the energy status of the body and treating the body with acupuncture and other related modalities for the purpose of strengthening the body, improving energy balance, maintaining or restoring health, improving physiological function, and reducing pain.