

and fiscal devices and official controls, as required by section 473.864, subdivision 2. The council shall consult with affected local government units to evaluate the need for technical and financial assistance.

Sec. 11. REPORT TO LEGISLATURE.

The council shall report to the legislature by January 15, 1996, on the results of its consultation with affected local governmental units on the need for technical and financial assistance as required under Minnesota Statutes, section 473.867, subdivision 6.

Sec. 12. APPLICATION.

This act applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Presented to the governor May 15, 1995

Signed by the governor May 17, 1995, 1:48 p.m.

CHAPTER 177—H.F.No. 446

An act relating to occupations and professions; establishing licensure for acupuncture practitioners by the board of medical practice; appropriating money; providing penalties; proposing coding for new law as Minnesota Statutes, chapter 147B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. PURPOSE.

Acupuncture practice is recognized as a clearly defined system of health care with its own specialized body of knowledge. The knowledge and skills of the acupuncture practitioner directly affect the quality and safety of treatment received by the practitioner's client. It is therefore in the public interest to ensure that acupuncture practitioners meet the generally accepted standards of competence in the profession. The purpose of Minnesota Statutes, chapter 147B, is to limit the practice of acupuncture to persons who meet those standards of competence.

Sec. 2. [147B.01] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to this chapter.

Subd. 2. ACUPRESSURE. "Acupressure" means the application of pressure to acupuncture points.

Subd. 3. ACUPUNCTURE PRACTICE. "Acupuncture practice" means a comprehensive system of health care using Oriental medical theory and its

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unique methods of diagnosis and treatment. 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.

Subd. 4. ACUPUNCTURE NEEDLE. "Acupuncture needle" means a needle designed exclusively for acupuncture purposes. 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.

Subd. 5. ACUPUNCTURE POINTS. "Acupuncture points" means specific anatomically described locations as defined by the recognized acupuncture reference texts. These texts are listed in the study guide to the examination for the NCCA certification exam.

Subd. 6. ACUPUNCTURE PRACTITIONER. "Acupuncture practitioner" means a person licensed to practice acupuncture under this chapter.

Subd. 7. BOARD. "Board" means the board of medical practice or its designee.

Subd. 8. BLOOD BORNE DISEASE. "Blood borne disease" means a disease that is spread through exposure to blood, inoculation or injection of blood, or exposure to blood-contaminated body fluids or tissues. Blood borne disease includes infection caused by such agents as human immunodeficiency virus (HIV) and hepatitis B virus (HBV).

Subd. 9. BREATHING TECHNIQUES. "Breathing techniques" means Oriental breathing exercises taught to a patient as part of a treatment plan.

Subd. 10. CUPPING. "Cupping" means a therapy in which a jar-shaped instrument is attached to the skin and negative pressure is created by using suction.

Subd. 11. DERMAL FRICTION. "Dermal friction" means rubbing on the surface of the skin, using topical ointments with a smooth-surfaced instrument without a cutting edge that can be sterilized or, if disposable, a one-time only use product.

Subd. 12. DIPLOMATE IN ACUPUNCTURE. "Diplomate in acupuncture" means a person who is certified by the NCCA as having met the standards of competence established by the NCCA, who subscribes to the NCCA code of ethics, and who has a current and active NCCA certificate. Current and active NCCA certification indicates successful completion of continued professional development and previous satisfaction of NCCA requirements.

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Subd. 13. ELECTRICAL STIMULATION. "Electrical stimulation" means a method of stimulating acupuncture points by an electrical current of .001 to 100 milliamps, or other current as approved by the board. Electrical stimulation may be used by attachment of a device to an acupuncture needle or may be used transcutaneously without penetrating the skin.

Subd. 14. HERBAL THERAPIES. "Herbal therapies" are the use of herbs and patent herbal remedies as supplements as part of the treatment plan of the patient.

Subd. 15. INFECTION CONTROL. "Infection control" means programs, procedures, and methods to reduce the transmission of agents of infection for the purpose of preventing or decreasing the incidence of infectious diseases.

Subd. 16. NCCA. "NCCA" means the National Commission for the Certification of Acupuncturists, a not-for-profit corporation organized under section 501(c)(4) of the Internal Revenue Code.

Subd. 17. NEEDLE SICKNESS. "Needle sickness" is a temporary state of nausea and dizziness that is a potential side effect to needle insertion and from which full recovery occurs when the needles are removed.

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.

Sec. 3. [147B.02] LICENSURE.

Subdivision 1. LICENSURE REQUIRED. Except as provided under subdivision 4, it is unlawful for any person to engage in the practice of acupuncture without a valid license after June 30, 1997. Each licensed acupuncture practitioner shall conspicuously display the license in the place of practice.

Subd. 2. DESIGNATION. A person licensed under this chapter shall use the title of licensed acupuncturist or L.Ac. following the person's name in all forms of advertising, professional literature, and billings. A person may not, in the conduct of an occupation or profession pertaining to the practice of acupuncture or in connection with the person's name, use the words or letters licensed acupuncturist, Minnesota licensed acupuncturist, or any other words, letters, abbreviations, or insignia indicating or implying that a person is an acupuncturist without a license issued under this section. A student attending an acupuncture training program must be identified as a student acupuncturist.

Subd. 3. PENALTY. A person who violates this section is guilty of a misdemeanor and subject to discipline under section 147.091.

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Subd. 4. EXCEPTIONS. (a) The following persons may practice acupuncture within the scope of their practice without an acupuncture license:

- (1) a physician licensed under this chapter;
- (2) an osteopath licensed under this chapter;
- (3) a chiropractor licensed under chapter 148;

(4) a person who is studying in a formal course of study or tutorial intern program approved by the acupuncture advisory council established in section 147B.05 so long as the person's acupuncture practice is supervised by a licensed acupuncturist;

(5) a visiting acupuncturist practicing acupuncture within an instructional setting for the sole purpose of teaching at a school registered with the Minnesota higher education coordinating board, who may practice without a license for a period of one year, with two one-year extensions permitted; and

(6) a visiting acupuncturist who is in the state for the sole purpose of providing a tutorial or workshop not to exceed 30 days in one calendar year.

(b) This chapter does not prohibit a person who does not have an acupuncturist license from practicing specific noninvasive techniques, such as acupressure, that are within the scope of practice as set forth in section 147B.06, subdivision 4.

Subd. 5. LICENSURE BY EQUIVALENCY DURING TRANSITIONAL PERIOD. (a) From July 1, 1995, to June 30, 1997, a person may qualify for licensure if the person has engaged in acupuncture practice for at least three years in the period from July 1, 1991, to June 30, 1995, with at least 500 patient visits in each of the three years with at least 100 different patients. Acupuncture practice must be the primary means of treatment, not an adjunctive therapy. The person must also provide documentation of successful completion of a clean needle technique course approved by the acupuncture advisory board and provide documentation of practice through at least four of the following methods:

(1) original notarized letters from employers specifying the dates and hours worked, nature of the practice, and number of visits;

(2) notarized affidavits from a minimum of 20 patients with current phone numbers and addresses for each, specifying the time period of treatment and the nature of the treatment;

(3) notarized affidavits from at least two other health care professionals, state or local acupuncture or Oriental medicine associations, schools or colleges, with testimony based on personal knowledge regarding the dates, volume, scope, and type of practice;

(4) notarized affidavits from at least two other members within the community with testimony based on personal knowledge regarding the dates, volume, scope, and type of practice; and

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(5) notarized copies of patient records. The person must also meet any other requirements established by the board.

(b) All documentation submitted in a foreign language must be accompanied by an accurate translation in English. Each translated document must bear the affidavit of the translator certifying that the translator is competent in both the language of the document and in the English language and that the translation is true and a complete translation of the foreign language original and must be sworn before a notary public. Translation of any document relative to a person's application is at the expense of the applicant.

(c) Application for licensure under this subdivision must be submitted to the board from July 1, 1995, to June 30, 1997. All of the required patient visits must have been completed before application for licensure.

Subd. 6. LICENSE BY RECIPROCITY. The board shall issue an acupuncture license to a person who holds a current license or certificate as an acupuncturist from another jurisdiction if the board determines that the standards for certification or licensure in the other jurisdiction meet or exceed the requirements for licensure in Minnesota and a letter is received from that jurisdiction that the acupuncturist is in good standing in that jurisdiction.

Subd. 7. LICENSURE REQUIREMENTS. (a) After June 30, 1997, an applicant for licensure must:

(1) submit a completed application for licensure on forms provided by the board, which must include the applicant's name and address of record, which shall be public;

(2) unless licensed under subdivision 5 or 6, submit a notarized copy of a current NCCA certification;

(3) sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief;

(4) submit with the application all fees required; and

(5) sign a waiver authorizing the board to obtain access to the applicant's records in this state or any state in which the applicant has engaged in the practice of acupuncture.

(b) The board may ask the applicant to provide any additional information necessary to ensure that the applicant is able to practice with reasonable skill and safety to the public.

(c) The board may investigate information provided by an applicant to whether the information is accurate and complete. The board shall notify an applicant of action taken on the application and the reasons for denying licensure if licensure is denied.

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Subd. 8. LICENSURE EXPIRATION. Licenses issued under this section expire annually.

Subd. 9. RENEWAL (a) To renew a license an applicant must:

(1) annually, or as determined by the board, complete a renewal application on a form provided by the board;

(2) submit the renewal fee;

(3) provide evidence annually of one hour of continuing education in the subject of infection control, including blood borne pathogen diseases;

(4) provide documentation of current and active NCCA certification; or

(5) if licensed under subdivision 5 or 6, meet one-half the then current NCCA professional development activity requirements.

(b) An applicant shall submit any additional information requested by the board to clarify information presented in the renewal application. The information must be submitted within 30 days after the board's request, or the renewal request is nullified.

Subd. 10. LICENSURE RENEWAL NOTICE. At least 30 days before the license renewal date, the board shall send out a renewal notice to the last known address of the licensee. The notice must include a renewal application and a notice of fees required for renewal. If the licensee does not receive a renewal notice, the licensee must still meet the requirements for registration renewal under this section.

Subd. 11. RENEWAL DEADLINE. The renewal application and fee must be postmarked on or before June 30 of the year of renewal or as determined by the board.

Subd. 12. INACTIVE STATUS. (a) A license may be placed in inactive status upon application to the board and upon payment of an inactive status fee. The board may not renew or restore a license that has lapsed and has not been renewed within two annual license renewal cycles.

(b) An inactive license may be reactivated by the license holder upon application to the board. A licensee whose license is canceled for nonrenewal must obtain a new license by applying for licensure and fulfilling all the requirements then in existence for the initial license to practice acupuncture in the state of Minnesota. The application must include:

(1) evidence of current and active NCCA certification;

(2) evidence of the certificate holder's payment of an inactive status fee;

(3) an annual fee; and

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(4) all back fees since previous renewal.

(c) A person licensed under subdivision 5 who has allowed the license to reach inactive status must become NCCA certified.

Subd. 13. TEMPORARY PERMIT. The board may issue a temporary permit to practice acupuncture to an applicant eligible for licensure under this section only if the application for licensure is complete, all applicable requirements in this section have been met, and a nonrefundable fee set by the board has been paid. The permit remains valid only until the meeting of the board at which a decision is made on the acupuncturist's application for licensure.

Sec. 4. [147B.03] NCCA PROFESSIONAL DEVELOPMENT ACTIVITY REQUIREMENTS.

Subdivision 1. NCCA REQUIREMENTS. Unless a person is licensed under section 147B.02, subdivision 5 or 6, each licensee is required to meet the NCCA professional development activity requirements to maintain NCCA certification. These requirements may be met through a board approved continuing education program.

Subd. 2. BOARD APPROVAL. The board shall approve a continuing education program if the program meets the following requirements:

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

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

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

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

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

Subd. 3. CONTINUING EDUCATION TOPICS. (a) Continuing education program topics may include, but are not limited to, Oriental medical theory and techniques including Oriental massage; Oriental nutrition; Oriental herbology and diet therapy; Oriental exercise; western sciences such as anatomy, physiology, biochemistry, microbiology, psychology, nutrition, history of medicine; and medical terminology or coding.

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

Subd. 4. VERIFICATION. The board shall periodically select a random sample of acupuncturists and require the acupuncturist to show evidence of having completed the NCCA professional development activities requirements. Either the acupuncturist, the state, or the national organization that maintains

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continuing education records may provide the board documentation of the continuing education program.

Sec. 5. [147B.04] BOARD ACTION ON APPLICATIONS.

Subdivision 1. VERIFICATION OF APPLICATION INFORMATION. The board or acupuncture advisory council established under section 147B.05, with the approval of the board, may verify information provided by an application for licensure under section 147B.02 to determine if the information is accurate and complete.

Subd. 2. NOTIFICATION OF BOARD ACTION. Within 120 days of receipt of the application, the board shall notify each applicant in writing of the action taken on the application.

Subd. 3. REQUEST FOR HEARING BY APPLICANT DENIED. An applicant denied licensure must be notified of the determination, and the grounds for it, and may request a hearing on the determination by filing a written statement of issues with the board within 20 days after receipt of the notice from the board. After the hearing, the board shall notify the applicant in writing of its decision.

Sec. 6. [147B.05] ACUPUNCTURE ADVISORY COUNCIL.

Subdivision 1. CREATION. The advisory council to the board of medical practice for acupuncture consists of seven members appointed by the board to three-year terms. Four members must be licensed acupuncture practitioners, one member must be a licensed physician or osteopath who also practices acupuncture, one member must be a licensed chiropractor who is NCCA certified, and one member must be a member of the public who has received acupuncture treatment as a primary therapy from a NCCA certified acupuncturist.

Subd. 2. ADMINISTRATION; COMPENSATION; REMOVAL; QUORUM. The advisory council is governed by section 15.059, except that the council does not expire until June 30, 1999.

Subd. 3. DUTIES. The advisory council shall:

(1) advise the board on issuance, denial, renewal, suspension, revocation, conditioning, or restricting of licenses to practice acupuncture;

(2) advise the board on issues related to receiving, investigating, conducting hearings, and imposing disciplinary action in relation to complaints against acupuncture practitioners;

(3) maintain a register of acupuncture practitioners licensed under section 147B.02;

(4) maintain a record of all advisory council actions;

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(5) prescribe registration application forms, license forms, protocol forms, and other necessary forms;

(6) review the patient visit records submitted by applicants during the transition period;

(7) advise the board regarding standards for acupuncturists;

(8) distribute information regarding acupuncture practice standards;

(9) review complaints;

(10) advise the board regarding continuing education programs;

(11) review the investigation of reports of complaints and recommend to the board whether disciplinary action should be taken; and

(12) perform other duties authorized by advisory councils under chapter 214, as directed by the board.

Sec. 7. [147B.06] PROFESSIONAL CONDUCT.

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

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

(1) the practitioner's qualifications including:

(i) education;

(ii) license information; and

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

(2) side effects which may include the following:

(i) some pain in the treatment area;

(ii) minor bruising;

(iii) infection;

(iv) needle sickness; or

(v) broken needles.

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

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

Subd. 2. STERILIZED EQUIPMENT. An acupuncture practitioner shall use sterilized equipment that has been sterilized under standards of the National Centers for Disease Control and Prevention.

Subd. 3. STATE AND MUNICIPAL PUBLIC HEALTH REGULATIONS. An acupuncture practitioner shall comply with all applicable state and municipal requirements regarding public health.

Subd. 4. SCOPE OF PRACTICE. The scope of practice of acupuncture includes, but is not limited to, the following:

- (1) using Oriental medical theory to assess and diagnose a patient;
- (2) using Oriental medical theory to develop a plan to treat a patient. The treatment techniques that may be chosen include:
 - (i) insertion of sterile acupuncture needles through the skin;
 - (ii) acupuncture stimulation including, but not limited to, electrical stimulation or the application of heat;
 - (iii) cupping;
 - (iv) dermal friction;
 - (v) acupressure;
 - (vi) herbal therapies;
 - (vii) dietary counseling based on traditional Chinese medical principles;
 - (viii) breathing techniques; or
 - (ix) exercise according to Oriental medical principles.

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 examination and diagnosis;

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

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

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.

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

Subd. 7. DATA PRACTICES. Data maintained on an acupuncture patient by an acupuncture practitioner is subject to section 144.336.

Sec. 8. [147B.07] DISCIPLINE; REPORTING.

For purposes of this chapter, acupuncturist licensees and applicants are subject to the provisions of sections 147.091 to 147.162.

Sec. 9. [147B.08] FEES.

Subdivision 1. ANNUAL REGISTRATION FEE. The board shall establish the fee of \$150 for initial licensure and \$150 annual licensure renewal. The board may prorate the initial licensure fee.

Subd. 2. PENALTY FEE FOR LATE RENEWALS. The penalty fee for late submission for renewal application is \$50.

Subd. 3. DEPOSIT. Fees collected by the board under this section must be deposited in the state government special revenue fund.

Sec. 10. INITIAL ADVISORY COUNCIL.

(a) Notwithstanding Minnesota Statutes, section 147B.05, the four members

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of the advisory council required by that section to be acupuncture practitioners, who are appointed to the initial advisory committee, need not be licensed under Minnesota Statutes, section 147B.02, but must satisfy the qualifications for licensure provided in section 147B.02, subdivision 7, and must have been engaged in acupuncture practice a minimum of three years.

(b) Two members of the initial advisory committee appointed must have an initial term of one year, two members an initial term of two years, and three members an initial term of three years.

Sec. 11. APPROPRIATION.

\$10,000 in fiscal year 1996 and \$10,000 in fiscal year 1997 are appropriated from the state government special revenue fund to the state board of medical practice to license acupuncture practitioners under this act.

Sec. 12. EFFECTIVE DATE.

This act is effective July 1, 1995.

Presented to the governor May 15, 1995

Signed by the governor May 17, 1995, 2:00 p.m.

CHAPTER 178—H.F.No. 5

An act relating to health and human services; authorizing welfare reform; childhood immunization; social services programs; recovery of funds; requesting federal waivers for programs; employment, education, and training programs; allocation and use of funds; coverage of health services; child support; data collection and disclosure; tax credits; appropriating money; amending Minnesota Statutes 1994, sections 13.46, subdivision 2; 256.01, by adding subdivisions; 256.035, subdivision 6d; 256.73, subdivision 8, and by adding subdivisions; 256.736, subdivisions 3a, 4a, 5, 10, 10a, 14, 16, and by adding a subdivision; 256.737, subdivisions 1a, 2, and by adding a subdivision; 256.74, by adding a subdivision; 256.81; 256.979, by adding a subdivision; 256.983, subdivision 1; 256B.0625, subdivision 13; 256D.01, subdivision 1a; 256D.03, subdivision 4; 256D.05, subdivisions 1 and 6; 256D.051, subdivisions 1, 1a, 2, 3, 3a, 3b, 6, 6b, 8, 9, 17, and by adding a subdivision; 256D.052, subdivision 3; and 256D.09, subdivision 2a, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 256; and 256D; repealing Minnesota Statutes 1994, sections 256.734; 256D.051, subdivisions 10, 13, 14, and 15; 256D.052, subdivisions 1, 2, and 4; 256D.091; 256D.101; 256D.111; and 256D.113.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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