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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

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

Introduced By: Representative David A. Bennett

Date Introduced: January 25, 2021

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 of
2 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 PRACTICE OF ACUPUNCTURE AND CHINESE 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, 5-37.2-
9 19, 5-37.2-20 and 5-37.2-21 of the General Laws in Chapter 5-37.2 entitled "The Healing Art of
10 Acupuncture and Oriental Medicine" are hereby amended to read as follows:

11 ~~5-37.2-1. Legislative declaration -- Acupuncture and Oriental medicine~~ Legislative
12 declaration -- Acupuncture and Chinese Medicine.

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

17 ~~5-37.2-1.1. Board of acupuncture and Oriental medicine~~ Board of acupuncture and
18 Chinese medicine.

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

9 (b) The director of health may remove any member from the board for neglect of any duty
10 required by law or for any incompetency, unprofessional, or dishonorable conduct. Vacancies
11 created by voluntary resignation or removal by the director of health shall be filled in the same
12 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 this
15 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 skin~~
17 ~~of the body,~~ for the purpose of ~~controlling and~~ regulating ~~the flow of energy and blood in the body~~
18 physiology.

19 (2) "Acupuncture and Chinese medicine" means a form of health care, with a foundation
20 in classical and modern Chinese medical concepts and theory, that employs Chinese medical
21 diagnostic methods such as pulse, tongue, palpation and observational diagnosis, as well as
22 diagnostic techniques based on newer scientific models. "Acupuncture and Chinese medicine"
23 includes acupuncture and adjunct therapies for the promotion, maintenance, or restoration of health,
24 and the treatment, or prevention, of any ailment. The techniques and adjunct therapies of
25 "Acupuncture and Chinese medicine" may include acupuncture, electro-acupuncture, laser
26 acupuncture, moxibustion (heat therapy), cupping, TDP and infrared lamps, manual therapies such
27 as gua sha, cupping and tui na, corrective exercises such as Qi Gong, Chinese herbal medicine,
28 dietary therapy, breathing exercises, and life-style change consultations.

29 (3) "Auricular acudetox", also known as "5 Needle Protocol", "5NP", or "NADA protocol"
30 means a standardized point auricular acupuncture protocol, consisting of five (5) points:
31 Sympathetic, Shen Men, Liver, Kidney, and Lung, and was developed by the National Acupuncture
32 Detox Association (NADA) as an adjunct therapy for the treatment of addiction, substance use
33 disorder, mental and behavioral health, trauma, and for relief in disaster settings.

34 (4) "Auricular acupuncture technician (AAT)" means a qualified individual, as defined in

1 this section, with auricular acupuncture technician training based on the program developed by
2 NADA, and is delivered by NADA, or its equivalent.

3 (5) "Chinese herbal medicine" means traditional combinations of raw, granular
4 preparations of herbs to produce formulas from Chinese herbal literature, the modification of those
5 traditional combinations, or the writing of new formulas to address individual symptom
6 presentations, through addition, deletion, substitution or change in dosages of ingredients and the
7 dispensing of these herbal preparations to patients, including in pill, tablet, capsule or liquid form.

8 ~~(2)~~(6) "Department" means the state department of health.

9 (7) "Doctor of acupuncture" means a person licensed under the provisions of this chapter
10 to practice acupuncture and Chinese medicine.

11 ~~(3)~~(8) "Doctor of Acupuncture and ~~Oriental~~ Chinese Medicine" means a person licensed
12 under the provisions of this chapter to practice ~~the art of healing known as~~ acupuncture and ~~Oriental~~
13 Chinese medicine, and who has additional training, experience or certification to practice Chinese
14 herbal medicine.

15 ~~(4) "Oriental medicine" means a form of health care, based on classical Chinese medical~~
16 ~~concepts and modern Oriental medical techniques, that employs Chinese medical diagnosis such~~
17 ~~as pulse, tongue, palpatory, and observational diagnosis, as well as acupuncture therapies and~~
18 ~~diagnostic techniques based on newer scientific models for the assessment, treatment, prevention,~~
19 ~~and cure of any disease with the purpose of full health restoration. The techniques and modalities~~
20 ~~of Oriental medicine include acupuncture, electro-acupuncture, laser acupuncture, moxibustion~~
21 ~~(heat therapy), cupping, TDP and infrared lamps, Tuina, Qi Gong, Gwa/sha, thermography, herbal~~
22 ~~GMP standardized therapy, homeopathy and supplement therapy, Chinese dieting therapy,~~
23 ~~breathing exercises, and lifestyle change consultations.~~

24 (9) "General supervision" means, but is not limited to, availability by telephone or other
25 electronic means during business hours.

26 (10) "National Acupuncture Detoxification Association" or "NADA" means a not-for-
27 profit organization that provides a certificate of acudetox training.

28 (11) "Qualified individual" means a licensed nurse, clinical social worker, mental health
29 counselor, certified peer recovery specialist, or certified alcohol or chemical dependency
30 professional, trained and certified in auricular acudetox. A qualified individual is required to be
31 under general supervision of a licensed acupuncturist pursuant to chapter 37.2 of this title.

32 **5-37.2-7. Powers of department.**

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

34 (1) Engage persons of established reputation and known ability in acupuncture ~~and~~ or

1 ~~Oriental~~ Chinese medicine as consultants to the department; the Rhode Island Society of
2 Acupuncture ~~and Oriental Medicine~~ and any other professional association of acupuncture ~~and or~~
3 ~~Oriental~~ Chinese medicine are designated as appropriate bodies with which the department shall
4 consult for referral of consultants and other assistance to the department;

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

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

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

11 **5-37.2-8.1. License required.**

12 (a) Unless licensed as a doctor of acupuncture ~~and Oriental~~ or Chinese medicine under this
13 chapter, or exempt from licensure under the provisions of this chapter, no person shall practice or
14 hold himself or herself out as practicing, or engaging in the practice of, acupuncture and ~~Oriental~~
15 Chinese medicine, either for compensation or gratuitously.

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

18 **5-37.2-9. Special licensing.**

19 (a) Upon application to the department prior to July 1, 1980, any person who has been an
20 instructor in the art of acupuncture ~~and Oriental~~ or Chinese medicine at a domestic or foreign
21 college or university satisfactory to the department for a period of two (2) years and who has had
22 at least ten (10) years' experience, shall be granted a license by the department as a doctor of
23 acupuncture ~~and Oriental~~ or doctor of acupuncture and Chinese medicine without the necessity of
24 taking an examination.

25 (b) An acupuncturist, licensed and in good standing to practice acupuncture in another
26 jurisdiction, may perform acupuncture or acupuncture and Chinese medicine while teaching or
27 demonstrating or providing acupuncture in connection with teaching or participating in an
28 educational seminar in Rhode Island.

29 (c) An auricular acupuncture technician, qualified and trained to perform 5NP, may
30 perform the procedure within that individual's current scope of practice; provided, that the
31 individual obtains a certificate of training from a recognized organization or agency that meets or
32 exceeds NADA training.

33 (d) Acudetox may be performed by auricular acupuncture technicians working in, or in
34 collaboration with, behavioral health and health care agencies, or other state-approved programs or

1 [agencies.](#)

2 [\(e\) Any complaints filed against an auricular acupuncture technician relating to the](#)
3 [performance of any 5NP procedure shall be handled by the licensing board or department in](#)
4 [conformance with the requirements of that individual's health care license or certification.](#)

5 [\(f\) Any individual performing 5NP shall not use the title "acupuncturist" or "doctor of](#)
6 [acupuncture" or "doctor of acupuncture and Chinese medicine," as defined in § 5-37.2-2, or](#)
7 [otherwise represent himself or herself as an acupuncture professional and shall not perform](#)
8 [acupuncture outside of the scope of the auricular acudetox procedure.](#)

9 [\(g\) Nothing in this chapter is intended to limit, interfere with, or prevent a certified](#)
10 [auricular acupuncture technician from practicing within the scope of their certification.](#)

11 **5-37.2-10. Application for licenses -- Fees.**

12 An applicant for examination for a license to practice acupuncture and ~~Oriental~~ [Chinese](#)
13 medicine or any branch of acupuncture and ~~Oriental~~ [Chinese](#) medicine shall:

- 14 (1) Submit an application to the department on forms provided by the department;
15 (2) Submit satisfactory evidence that he or she is twenty-one (21) years or older and meets
16 the appropriate education requirements;
17 (3) Pay a fee as set forth in § 23-1-54; and
18 (4) Pay any fees required by the department for an investigation of the applicant or for the
19 services of a translator, if required, to enable the applicant to take the examination.

20 **5-37.2-12. Issuance of licenses to practice acupuncture.**

21 The department shall issue a license for the practice of acupuncture and ~~Oriental~~ [Chinese](#)
22 medicine where the applicant meets the requirements of § 5-37.2-12.1 except as exempted.

23 **5-37.2-12.1. Examination requirements and issuance of license.**

24 (a) No person shall be licensed as a doctor of acupuncture ~~and Oriental~~ [or doctor of](#)
25 [acupuncture and Chinese](#) medicine unless he or she has passed the examination by the National
26 Certification Commission for Acupuncture and Oriental Medicine or ~~successor entity~~ [a](#)
27 [credentialing body approved by the department.](#)

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

- 30 (1) Is a United States citizen or legal alien;
31 (2) Has demonstrated proficiency in the English language;
32 (3) Is at least twenty-one (21) years of age;
33 (4) Is of good moral character;
34 (5) Has completed an accredited program of ~~at least thirty-six (36) months and~~ not less than

1 ~~twenty five hundred (2,500)~~ one thousand nine hundred five (1,905) hours of training and has
2 received a certificate or diploma from an institute approved by the Accreditation Commission for
3 ~~Schools and Colleges of~~ Acupuncture and Oriental Medicine, or any accrediting body approved by
4 the department, according to the provisions of this chapter; provided, that this subdivision does not
5 apply to anyone licensed to practice under chapter 37 of this title who is qualified to take and pass
6 the test by the ~~National Commission for the Certification of Acupuncture and Oriental Medicine~~
7 National Certification Commission for Acupuncture and Oriental Medicine, or any credentialing
8 body meeting the standards for professional certification programs approved by the department;

9 (6) Has completed a clinical internship training that is designated as appropriate by the
10 ~~National Commission for the Certification of Acupuncture and Oriental Medicine~~ Accreditation
11 Commission for the Schools and Colleges of Acupuncture and Oriental Medicine (ACAOM) or
12 any credentialing body meeting the standards for professional certification programs approved by
13 the department; and

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

17 (c) Additional certification for the practice of Chinese herbal medicine.

18 (1) A licensed acupuncturist is required to demonstrate that he or she is qualified by
19 training, experience or certification to practice Chinese herbal medicine. The department shall
20 adopt rules specifying the training required for licensed acupuncturists to obtain the certification to
21 practice Chinese herbal medicine.

22 (2) Licensees who obtained licensure prior to January 1, 2022, and employ herbal therapy,
23 including herbal formulations, and who submitted evidence of herbal training that the department
24 has determined was substantially equivalent or exceeded the ACAOM curricular requirements
25 regarding Chinese herbal medicine may continue to employ herbal therapy and may be granted a
26 doctor of acupuncture and Chinese medicine license by the department.

27 (3) A licensee who is licensed on or after January 1, 2022 and who completed an ACAOM
28 accredited or candidate status Oriental medicine program, or Traditional Chinese medicine
29 program, or who completed an herbal medicine program that the department determined was
30 substantially equivalent or exceeded the ACAOM curriculum requirements regarding herbal
31 medicine, or who has passed the Chinese herbal medicine examination by the National Certification
32 Commission for Acupuncture and Oriental Medicine or a credentialing body approved the
33 department, may continue to employ Chinese herbal medicine therapy, during the course of
34 treatment if the licensee has obtained department approval to employ herbal therapy, and shall be

1 [granted a doctor of acupuncture and Chinese medicine license.](#)

2 [\(d\) All licensees pursuant to this chapter shall adhere to procedures that employ the use of](#)
3 [disposable, single-use, sterile needles, with proper handling and disposal, and that follow the](#)
4 [provisions of universal precautions.](#)

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

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

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

12 (2) The requirements for practice in the state or territory in which the applicant is licensed,
13 certified, or registered as an acupuncturist are at least as stringent as those of this state. ~~;- 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 Oriental~~
16 ~~medicine in that jurisdiction.~~

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

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

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

25 (2) Continuing education hours will be accepted by the department for course work that
26 has been presented, accepted, or approved by a nationally recognized acupuncture and ~~Oriental~~
27 [Chinese](#) medicine organization or its local chapter, or any accredited school of acupuncture and
28 ~~Oriental~~ [Chinese](#) 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 will be retained by the licensee for a minimum of three (3) years and
32 is 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 made
4 up during the following renewal period in addition to the current continuing education requirements
5 for the renewal period. If any doctor of acupuncture ~~and Oriental~~ or doctor of acupuncture and
6 Chinese medicine fails to make up the deficient hours and complete the subsequent renewal period,
7 or 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~~ Chinese medicine in this state shall record his or her license with the city or town hall in
13 the city or town where his or her office and residence are located. Every licensee upon a change of
14 residence or office shall have his or her certificate recorded in the same manner in the municipality
15 to which he or she has changed.

16 (b) Every license shall be displayed in the office, place of business, or place of employment
17 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 license
21 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) may be canceled by the board after thirty (30) days' notice to the 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.**

26 The department may either refuse to issue or may suspend or revoke any license for any
27 one or any combination 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 to 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 that renders further practice dangerous;
- 9 (9) Engaging in any dishonorable, unethical, or unprofessional conduct that may deceive,
- 10 defraud, or harm the public, or that is unbecoming a person licensed to practice under this chapter;
- 11 (10) Using any false or fraudulent statement in connection with the practice of acupuncture
- 12 or any branch of acupuncture;
- 13 (11) Violating, or attempting to violate, or assisting or abetting the violation of, or
- 14 conspiring to violate, any provision of this chapter;
- 15 (12) Being adjudicated incompetent or insane;
- 16 (13) Advertising in an unethical or unprofessional manner;
- 17 (14) Obtaining a fee or financial benefit for any person by the use of fraudulent diagnosis,
- 18 therapy, or treatment;
- 19 (15) Willfully disclosing a privileged communication;
- 20 (16) Failure of a licensee to designate his or her school of practice in the professional use
- 21 of his or her name by the term "doctor of acupuncture and ~~Oriental~~ [Chinese](#) medicine";
- 22 (17) Willful violation of the law relating to the health, safety, or welfare of the public, or
- 23 of the rules and regulations promulgated by the state board of health;
- 24 (18) Administering, dispensing, or prescribing any controlled substance as defined in § 21-
- 25 28-1.02, except for the prevention, alleviation, or cure of disease or for relief from suffering; and
- 26 (19) Performing, assisting, or advising in the injection of any liquid silicone substance into
- 27 the human body.

28 **5-37.2-18. Reporting vital statistics.**

29 Doctors of acupuncture and ~~Oriental~~ [Chinese](#) medicine shall observe and be subject to all
30 state and municipal regulations relative to reporting all births and deaths in all matters pertaining
31 to the public health.

32 **5-37.2-19. Seminars not in accordance with department regulations prohibited --**

33 **Penalty.**

34 (a) No seminar concerning acupuncture and ~~Oriental~~ [Chinese](#) medicine may be conducted

1 in this state except in accordance with regulations prescribed by the department for bona fide
2 educational seminars.

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

4 **5-37.2-20. Practice without a license a misdemeanor.**

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

10 **5-37.2-21. Injunctive relief.**

11 (a) The department may maintain in any court of competent jurisdiction a suit for an
12 injunction against any person or persons practicing acupuncture and ~~Oriental~~ Chinese medicine, or
13 any branch of acupuncture and ~~Oriental~~ Chinese medicine, without a license.

14 (b) This injunction:

15 (1) May be issued without proof of actual damage sustained by any person, this provision
16 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 license.

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

20 **5-37.2-24. Meaning of terms in existing laws.**

21 When in any law, resolution, document, record, instrument, proceeding, or other place the
22 words "Oriental medicine" as applied in this chapter appear, they shall be construed to mean
23 "Chinese medicine".

1 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

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

4 This act would take effect upon passage.

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