

Applicant Report Cover Sheet and Outline
Washington State Department of Health Sunrise Review

COVER SHEET

- **Legislative proposal being reviewed under the sunrise process (include bill number if available):**

S-3257.2/09 2nd draft

- **Name and title of profession the applicant seeks to credential/institute change in scope of practice:**

Chapter 18.06 RCW - Acupuncture

- **Applicant's organization:** Washington Acupuncture and Oriental Medicine Association (WAOMA)

Contact person: Leslie Emerick

Address:

Telephone number:

- **Number of members in the organization:** 223

Approximate number of individuals practicing in Washington: 1200

Name(s) and address(es) of national organization(s) with which the state organization is affiliated:

American Association of Acupuncture and Oriental Medicine (AAAOM)
PO Box 162340
Sacramento, CA 95816

916-443-4770

916-443-4766 Fax

866-455-7999 Toll-Free

- **Name(s) of other state organizations representing the profession:**

Washington Acupuncture and Oriental Medicine Association (WAOMA): 223 members

Advocates for the Advancement of Asian Medicine (AAAM): Unknown number of members

South Sound Acupuncture Association: 29 members

Southwest Washington Acupuncture Group: 26 members

Outline of Factors to be Addressed

Supporting Documentation Attachments:

- Attachment A: Draft bill language (herein referred to as S-3257.2/09 2nd draft).
- Attachment B: Definitions of Proposed Techniques.
- Attachment C: Good Laboratory Practices and Waived Test Systems.
- Attachment D: Scope and Techniques from Other States.
- Attachment E: Professional Code of Ethics.

(1) Define the problem and why regulation is necessary:

(a) The nature of the potential harm to the public if the health profession is not regulated, and the extent to which there is a threat to public health and safety.

Acupuncturists are regulated by the State of Washington under RCW 18.06 and provide an important role in health care in Washington State. The current scope of practice has not been updated for 24 years and does not reflect current standards of practice, advances in science and technology nor education of the profession.

(b) The extent to which consumers need and will benefit from a method of regulation identifying competent practitioners, indicating typical employers, if any, of practitioners in the health profession.

Consumers will benefit from the updated standards now being proposed as these standards will allow the practitioner to offer a broader range of treatment services within the current regulating guidelines for Licensed Acupuncturists. The public will be assured of the same protections they have now. The proposed standards include the addition of seven (7) modalities that will enhance public health. These modalities are: breathing, relaxation, and exercise techniques; qi gong, health education; in-office testing of temperature, blood pressure, auscultation, weight, body fat percentage, urine, saliva, stool, and blood to assist the practitioner in determining the need for referral to a primary care physician and to assist in treatment; massage and tui na; heat and cold therapies; and recommendations and dispensing of herbs, vitamins, minerals, and dietary and nutritional supplements. See Attachment B for definitions of proposed techniques.

The proposed standards clarify current requirements as defined in WAC 246-802-110 (Referral to other health care practitioners) by allowing Licensed Acupuncturists to screen for those conditions listed in WAC 246-802-110 (1) through (8) and make referrals to other health care practitioners as defined in (8)(a) and (8)(b), as well as assist in treatment.

Currently Licensed Acupuncturists are known mainly for the practice of acupuncture even though they practice many other modalities, this is confusing to the public. The proposed change in title of RCW 18.06 from acupuncturist to Asian Medicine Practitioner, and the definition of Asian medicine as a system of medicine, will clarify for the public that the treatments they receive under RCW 18.06 is within a system of medicine and not just one procedure (“acupuncture”).

(c) The extent of autonomy a practitioner has, as indicated by: (i) The extent to which the health profession calls for independent judgment and the extent of skill or experience required in making the independent judgment; and (ii) The extent to which practitioners are supervised:

Proposed updates to the scope of practice will benefit the public by assuring the public that Licensed Acupuncturists remain licensed and held accountable to professional standards under current laws that regulate health care providers.

(2) The efforts made to address the problem: (a) Voluntary efforts, if any, by members of the health profession to: (i) Establish a code of ethics; or (ii) Help resolve disputes between health practitioners and consumers; and (b) Recourse to and the extent of use of applicable law and whether it could be strengthened to control the problem:

Licensed Acupuncturists have been practicing under the current scope of practice for 24 years with few disciplinary complaints and actions against individuals in the profession. The proposed changes to scope of practice would strengthen current law under RCW 18.06.010 (1)(a) through (k) by further defining techniques (l) through (r), and requirements as defined in WAC 246-802-110. Current law is lacking the techniques to allow Licensed Acupuncturists to comply with these rules. Currently the statute does not reflect the growth of the profession or allow for practitioners to fully utilize their training for the health and enrichment of the public.

There are no proposed changes to current law that would affect the current code of ethics of the profession nor changes to RCW 18.130 (Regulation of health professions — uniform disciplinary act).

(3) The alternatives considered: (a) Voluntary efforts, if any, by members of the health profession to: (i) Establish a code of ethics; or (ii) Help resolve disputes between health practitioners and consumers; and (b) Recourse to and the extent of use of applicable law and whether it could be strengthened to control the problem.

Updating RCW 18.06 with the proposed standards as proposed in S-3257.2/09 2nd draft (Attachment A) would serve the public interest by allowing Licensed Acupuncturists to perform techniques that will provide improved patient care and treatment resulting in improved public health. There are no provisions in the proposed standards for services to be performed by anyone other than individuals licensed in RCW 18.06.

(4) The benefit to the public if regulation is granted.

Consumers will benefit from the updated standards now being proposed as these standards will allow the practitioner to offer a broader range of treatment services within the current regulating guidelines for Licensed Acupuncturists. The public will be assured of the same protections they have now and that they have come to trust and expect. Currently the statute does not reflect the growth of the profession or allow for practitioners to fully utilize their training for the health and enrichment of the public.

The proposed change in title of RCW 18.06 from acupuncturist to Asian Medicine Practitioner, and the definition of Asian medicine as a system of medicine, will clarify for the public that the treatments they receive under RCW 18.06 is within a system of medicine and not just one procedure (“acupuncture”).

The increase in scope of RCW 18.06 will result in improved public health as health care treatment, screening, and health education can be done for less cost by Licensed Acupuncturists. Health care services in Washington State are costly to the State, insurers, and consumers and most often do not provide the patient with the holistic treatments that the patient will receive from a Licensed Acupuncturist. Licensed Acupuncturists are experts in preventative medicine, nutrition, and health education, three areas well known for being the key to lowering rising health care costs due to treatable chronic and acute conditions.

Licensed Acupuncturists play an important role in the choice for basic health care, treatment and prevention. With the rising costs of health care, the growing dependence on drug therapy, and the ever-increasing need for health education, Licensed Acupuncturists are on the forefront of providing health education, disease prevention, the utilizing of drug free methods, and cost effective care.

The ability to perform in-office testing will serve as a further benefit for the public by providing verification of progress of treatment plans, and in-office testing results will allow the Licensed Acupuncturist to make an informed decision on the need for a referral to a primary care practitioner or other allied health professional, thereby complying with WAC 246-802-110.

The addition to the standards to include the recommendation and dispensing of herbs, vitamins, minerals, and dietary and nutritional supplements clarifies language in current statute to allow Licensed Acupuncturists to fully utilize their education in dietary therapy for the benefit to patient health.

(4)(a) The extent to which the incidence of specific problems present in the unregulated health profession can reasonably be expected to be reduced by regulation.

High standards of training, licensing, and professional conduct for Licensed Acupuncturists exists in Washington State. The updates in the standards proposed will further assure the public has continued access to safe medical treatment and therapies by Licensed Acupuncturists. Without the proposed standards a potential risk to public health would be patients seeking unregulated medical treatments by unlicensed practitioners.

(4)(b) Whether the public can identify qualified practitioners.

The Department of Health (DOH) has an easily navigable and searchable web-site that lists all practitioners by name and license number so the public can identify qualified practitioners. All information regarding a practitioner's current licensing status or issues involving licensure is clearly marked and for public record. There are no changes in the proposed standards that would change this.

(4)(c) The extent to which the public can be confident that qualified practitioners are competent.

All practitioners must meet high standards of didactic and educational requirements for licensure as presently established by the Secretary of Health. Licensing is also contingent upon passing a national certification examination administered by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM). The NCCAOM was founded in 1982 in order to establish, assess, and promote recognized standards of competence and safety in acupuncture and Oriental medicine for the protection and benefit of the public. NCCAOM Certification indicates to employers, patients, and peers that one has met national standards for the safe and competent practice of acupuncture as defined by the profession. Washington State holds a high standard for licensing, including NCCAOM certification, and high educational requirements. We wish to elevate our scope of practice to reflect the level of training we receive.

(4)(c)(i) Whether the proposed regulatory entity would be a board composed of members of the profession and public members, or a state agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification, or licensure, including the composition of the board and the number of public members, if any; the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension, and nonrenewal of registrations, certificates, or licenses; the promulgation of rules and canons of

ethics; the conduct of inspections; the receipt of complaints and disciplinary action taken against practitioners; and how fees would be levied and collected to cover the expenses of administering and operating the regulatory system.

There are no proposed changes to current standards regarding regulation.

(4)(c)(ii) If there is a grandfather clause, whether such practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date.

All Licensed Acupuncturists would be grandfathered in for all updates to scope of practice except for the techniques of in-office testing of urine, stool, saliva and blood, which we anticipate may require an additional professional development class to bring all Licensed Acupuncturists current in the use of simple in-office tests of these body fluids. Licensed Acupuncturists currently receive training in Blood Borne Pathogens prior to starting clinical rotations. The professional development class would be required prior to application to the MTS (Medical Test Site) licensure program. The MTS license would be required to perform in-office testing, but in-office testing would not be required of Licensed Acupuncturists. Practitioners “opt-in” by taking the professional development class and applying for the MTS license and paying the fee for that license. (See Attachment C.)

(4)(c)(iii) The nature of the standards proposed for registration, certification, or licensure as compared with the standards of other jurisdictions.

Many other states already include in their statutes the seven (7) techniques that are being proposed in the new standards. (See Attachment D.)

(4)(c)(iv) Whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions.

This is not applicable to a profession regulated under the Secretary of Health.

(4)(c)(v) The nature and duration of any training including, but not limited to, whether the training includes a substantial amount of supervised field experience; whether training programs exist in this state; if there will be an experience requirement; whether the experience must be acquired under a registered, certificated, or licensed practitioner; whether there are alternative routes of entry or methods of meeting the prerequisite qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met.

Current national educational standards include the training and testing of the seven (7) techniques listed in the proposed standards including the drawing of blood via lancets, with the exception of testing of urine, stool, saliva, and blood. These tests are simple to perform and fall under the classification of “waived tests” by Federal and State regulating bodies. A professional development class will be offered with the cost of taking the professional development class in good laboratory practices for waived tests (“in-office tests”) before a Licensed Acupuncturist may apply for MTS licensure. Scheduling and cost of the class will be borne by the individual Licensed Acupuncturist and not by the Department of Health.

(4)(c)(vi) What additional training programs are anticipated to be necessary to assure training accessible statewide; the anticipated time required to establish the additional training programs; the types of institutions capable of providing the training; a description of how training

programs will meet the needs of the expected work force, including reentry workers, minorities, placebound students, and others.

The testing of urine, stool, saliva, and blood in S-3257.2/09 2nd draft, Section 2 (o), fall under the category of “waived tests” and do not require CLIA certification. “Waived tests are simple lab examinations or procedures, cleared by FDA for home use, negligible likelihood of erroneous results, no reasonable risk of harm if performed incorrectly.” [Ref. Washington State Department of Health Laboratory Quality Assurance web site: http://www.doh.wa.gov/hsqa/FSL/LQA_Home.htm] Licensed Acupuncturists would be required to attend a professional development class in laboratory practices for in-office testing before a Licensed Acupuncturist may apply for MTS licensure.

The anticipated training program will be based on industry standards for performing in-office tests. We anticipate the training program can be accomplished in a one day class, to be offered in several locations around the State. WAOMA has initiated discussions with several organizations/individuals to sponsor and teach this professional development class.

Additionally, if any test requires the discontinuation of a medication prescribed by another medical practitioner, such as the avoidance of non-steroidal anti-inflammatory drugs prior to fecal occult blood testing, the Licensed Acupuncturist will get a written authorization for the test from the prescribing practitioner who will direct the course of the medication.

(4)(d) Assurance of the public that practitioners have maintained their competence.

Assurance of practitioner competence is achieved through the public’s ability to freely access licensing information and complaints through the Department of Health web site or by contacting the Department of Health directly. Licensed Acupuncturists have been practicing under the current scope of practice for 24 years with few disciplinary complaints and actions against individuals in the profession. Continued licensing shows qualifications and competence have been met as set by state regulations.

(4)(d)(i) Whether the registration, certification, or licensure will carry an expiration date.

There are no proposed changes to the current statute that would change the license renewal date.

(4)(d)(ii) Whether renewal will be based only upon payment of a fee, or whether renewal will involve reexamination, peer review, or other enforcement.

No changes to current standards that renewal is based only on payment of a fee.

(5) The extent to which regulation might harm the public.

Current practices under the existing scope of practice have not harmed the public, likewise, the proposed standards will not harm the public. The public has more to gain from the new standards as they increase the techniques available to Licensed Acupuncturists for more comprehensive treatment. Licensed Acupuncturists have been practicing under the current scope of practice for 24 years with few disciplinary complaints and actions against individuals in the profession; we do not expect this to change.

(5)(a) The extent to which regulation will restrict entry into the health profession: (i) Whether the proposed standards are more restrictive than necessary to insure safe and effective

performance.

The proposed standards do not restrict entry based on existing or new licensing requirements; there are no proposed changes to existing licensing requirements. The proposed standards are not more restrictive than necessary as they do not require mandatory use of the techniques by practitioners nor application to every patient.

(5)(a)(ii) Whether the proposed legislation requires registered, certificated, or licensed practitioners in other jurisdictions who migrate to this state to qualify in the same manner as state applicants for registration, certification, and licensure when the other jurisdiction has substantially equivalent requirements for registration, certification, or licensure as those in this state.

The proposed updates to the scope of practice do not alter the requirements that currently exist in statute related to practitioners who migrated to this state to qualify for licensure. All Licensed Acupuncturists would have to take a professional development class in in-office testing prior to applying for an MTS license if the practitioner wishes to perform in-office testing.

(5)(b) Whether there are similar professions to that of the applicant group which should be included in, or portions of the applicant group which should be excluded from, the proposed legislation.

There are no similar professions that have training in Acupuncture or Oriental/Asian Medicine that should be included or excluded from the current proposed Sunrise Review language.

(6) The maintenance of standards: (a) Whether effective quality assurance standards exist in the health profession, such as legal requirements associated with specific programs that define or enforce standards, or a code of ethics.

Current law requires that acupuncturists licensed under 18.06 must comply with the Uniform Disciplinary Act to maintain professional conduct and they must meet the qualification requirements under 18.06.050 Applications for examination — Qualifications. The proposed standards do not change these requirements.

(6)(b) How the proposed legislation will assure quality, (i) The extent to which a code of ethics, if any, will be adopted.

The proposed standards do not change or alter current licensing requirements. Currently there is a code of ethics that all applicants agree to as members of the NCCAOM, which is required for the initial application for acupuncture licensure in Washington State. The proposed updates to scope of practice do not change this. (See Attachment E.)

(6)(b)(ii) The grounds for suspension or revocation of registration, certification, or licensure.

Current law requires that acupuncturists licensed under 18.06 must comply with the Uniform Disciplinary Act to maintain professional conduct and they must meet the qualification requirements

under 18.06.050 Applications for examination — Qualifications. The proposed standards do not change these requirements.

(7) A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, an estimate of the number of practitioners in each group, and whether the groups represent different levels of practice.

Acupuncturists licensed in Washington State under RCW 18.06. There is one level of practice for Licensed Acupuncturists in Washington State.

Washington Acupuncture and Oriental Medicine Association (WAOMA): 223 members

Advocates for the Advancement of Asian Medicine (AAAM): unknown number of members

South Sound Acupuncture Association: 29 members

Southwest Washington Acupuncture Group: 26 members

(8) The expected costs of regulation:

We expect that there will be some costs associated with rulemaking activities.

We anticipate additional revenue to the State by the purchase of MTS licenses.

(9) List and describe major functions and procedures performed by members of the profession (refer to titles listed above). Indicate percentage of time typical individual spends performing each function or procedure:

Below is the proposed scope of practice for acupuncturists licensed under RCW 18.06. It is not possible to indicate the percentage of time an acupuncturist spends performing each function or procedure as it is an individual judgment made by each practitioner based on the needs of their patient and the patient's current diagnosis.

Current scope of practice is found in Chapter 18.06.010 RCW. The proposed changes to scope of practice are reflected in the language below. (See Attachment A.)

Sec. 1.1. A new section is added to chapter 18.06 RCW to read as follows:

The legislature intends to recognize that acupuncturists licensed by the state of Washington engage in a system of medicine to promote wellness and to prevent, diagnose, and treat disease drawing upon the experience, learning, and traditions originating in East Asia, which require more than acupuncture alone. To reflect this reality, the legislature intends to change the state's professional designation of acupuncturists to Asian medicine practitioners and to incorporate

current statutory provisions governing acupuncture while recognizing treatments, methods, and techniques used in Asian medicine. The legislature does not intend to require persons licensed under this act to change the business name of their practice if otherwise in compliance with this act.

Sec. 1.2. RCW 18.06.010 and 1995 c 323 s 4 are each amended to read as follows:

The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "~~((Acupuncture))~~ Asian medicine" means a health care service ~~((based on an Oriental system of medical theory))~~ utilizing ~~((Oriental))~~ diagnosis and treatment to promote health and treat organic or functional disorders ~~((by treating specific acupuncture points or meridians. Acupuncture))~~ and includes the following ~~((techniques))~~:

(a) Acupuncture, including the use of acupuncture needles or lancets to directly and indirectly stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique;

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Point injection therapy (aquapuncture); ~~((and))~~

(k) Dietary advice based on ~~((Oriental))~~ Asian medical theory ~~((provided in conjunction with techniques under (a) through (j) of this subsection))~~;

(l) Breathing, relaxation, and exercise techniques;

(m) Qi gong;

(n) Health education;

(o) In-office testing of: Temperature, blood pressure, oscultation, weight, body fat percentage, urine, saliva, stool, and blood to assist the practitioner in determining the need for referral to a primary care physician and to assist in treatment;

(p) Massage and Tui na;

(q) Heat and cold therapies; and

(r) Recommendations and dispensing of herbs, vitamins, minerals, and dietary and nutritional supplements.

Attachment A

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BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-3257.2/09 2nd draft
ATTY/TYPIST: AI:ean
BRIEF DESCRIPTION: Concerning Asian medicine practitioners.

AN ACT Relating to Asian medicine practitioners; amending RCW 18.06.010, 18.06.020, 18.06.045, 18.06.050, 18.06.080, 18.06.120, 18.06.130, 18.06.140, 18.06.190, 4.24.240, 4.24.290, 7.70.020, 18.120.020, and 43.70.110; and adding a new section to chapter 18.06 RCW.

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

NEW SECTION. **Sec. 1.3.** A new section is added to chapter 18.06 RCW to read as follows:

The legislature intends to recognize that acupuncturists licensed by the state of Washington engage in a system of medicine to promote wellness and to prevent, diagnose, and treat disease drawing upon the experience, learning, and traditions originating in East Asia, which require more than acupuncture alone. To reflect this reality, the legislature intends to change the state's professional designation of acupuncturists to Asian medicine practitioners and to incorporate current statutory

provisions governing acupuncture while recognizing treatments, methods, and techniques used in Asian medicine. The legislature does not intend to require persons licensed under this act to change the business name of their practice if otherwise in compliance with this act.

Sec. 1.4. RCW 18.06.010 and 1995 c 323 s 4 are each amended to read as follows:

The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "~~((Acupuncture))~~ Asian medicine" means a health care service ~~((based on an Oriental system of medical theory))~~ utilizing ~~((Oriental))~~ diagnosis and treatment to promote health and treat organic or functional disorders ~~((by treating specific acupuncture points or meridians. Acupuncture))~~ and includes the following ~~((techniques))~~:

(a) Acupuncture, including the use of acupuncture needles or lancets to directly and indirectly stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique;

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Point injection therapy (aquapuncture); ~~((and))~~

(k) Dietary advice based on ~~((Oriental))~~ Asian medical theory ~~((provided in conjunction with techniques under (a) through (j) of this subsection))~~;

(l) Breathing, relaxation, and exercise techniques;
(m) Qi gong;
(n) Health education;
(o) In-office testing of: Temperature, blood pressure, auscultation, weight, body fat percentage, urine, saliva, stool, and blood to assist the practitioner in determining the need for referral to a primary care physician and to assist in treatment;
(p) Massage and Tui na;
(q) Heat and cold therapies; and
(r) Recommendations and dispensing of herbs, vitamins, minerals, and dietary and nutritional supplements.

(2) "~~((Acupuncturist))~~ Asian medicine practitioner" means a person licensed under this chapter.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health or the secretary's designee.

Nothing in this chapter requires individuals to be licensed as an Asian medicine practitioner in order to sell herbal products.

Sec. 1.5. RCW 18.06.020 and 1995 c 323 s 5 are each amended to read as follows:

(1) No one may hold themselves out to the public as an acupuncturist or ~~((licensed acupuncturist))~~ Asian medicine practitioner or any derivative thereof which is intended to or is likely to lead the public to believe such a person is an acupuncturist or ~~((licensed acupuncturist))~~ practitioner of Asian medicine unless licensed as provided for in this chapter.

(2) A person may not practice Asian medicine, including acupuncture, if the person is not licensed under this chapter.

(3) No one may use any configuration of letters after their name (including AMP or L. Ac.) which indicates a degree or formal training in Asian medicine, including acupuncture, unless licensed as provided for in this chapter.

(4) The secretary may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is licensed under this chapter. Only a person licensed as an Asian medicine practitioner under this chapter may also refer to himself or herself as an acupuncturist.

(5) Any person licensed as an acupuncturist under this chapter prior to the effective date of this section must, at the date of their next license renewal date, be given the title Asian medicine practitioner.

Sec. 1.6. RCW 18.06.045 and 1995 c 323 s 6 are each amended to read as follows:

Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by an individual credentialed under the laws of this state and performing services within such individual's authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor;

(4) The practice of Asian medicine, including acupuncture, by any person credentialed to perform Asian medicine, including acupuncture, in any other jurisdiction where such person is doing so in the course of regular instruction of a school of acupuncture approved by the secretary or in an educational seminar by a professional organization of acupuncture, provided that in the latter case, the practice is supervised directly by a person

licensed under this chapter or licensed under any other healing art whose scope of practice (~~includes~~) is Asian medicine, including acupuncture.

Sec. 1.7. RCW 18.06.050 and 2004 c 262 s 2 are each amended to read as follows:

Any person seeking to be examined shall present to the secretary at least forty-five days before the commencement of the examination:

(1) A written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require; and

(2) Proof that the candidate has:

(a) Successfully completed a course, approved by the secretary, of didactic training in basic sciences and Asian medicine, including acupuncture, over a minimum period of two academic years. The training shall include such subjects as anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and a survey of western clinical sciences. The basic science classes must be equivalent to those offered at the collegiate level. However, if the applicant is a licensed chiropractor under chapter 18.25 RCW or a naturopath licensed under chapter 18.36A RCW, the requirements of this subsection relating to basic sciences may be reduced by up to one year depending upon the extent of the candidate's qualifications as determined under rules adopted by the secretary;

(b) Successfully completed five hundred hours of clinical training in acupuncture that is approved by the secretary.

Sec. 1.8. RCW 18.06.080 and 2009 c 560 s 2 are each amended to read as follows:

(1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer

examinations in Asian medicine, including acupuncture, at least twice a year at such times and places as the secretary may select. The examination shall be a written examination and may include a practical examination.

(2) The secretary shall develop or approve a licensure examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by (~~licensed acupuncturists~~) an Asian medicine practitioner and shall include but not necessarily be limited to anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and acupuncture. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is successfully passed, the secretary shall confer on such candidate the title of (~~Licensed Acupuncturist~~) Asian medicine practitioner.

(4) The secretary, ad hoc committee members, or individuals acting in their behalf are immune from suit in a civil action based on any certification or disciplinary proceedings or other official acts performed in the course of their duties.

Sec. 1.9. RCW 18.06.120 and 1996 c 191 s 3 are each amended to read as follows:

(1) Every person licensed (~~in acupuncture~~) under this chapter shall comply with the administrative procedures and administrative requirements for registration and renewal set by the secretary under RCW 43.70.250 and 43.70.280.

(2) All fees collected under this section and RCW 18.06.070 shall be credited to the health professions account as required under RCW 43.70.320.

Sec. 1.10. RCW 18.06.130 and 2003 c 53 s 121 are each amended to read as follows:

(1) The secretary shall develop a form to be used by ~~((an acupuncturist))~~ a person licensed under this chapter to inform the patient of the ~~((acupuncturist's))~~ scope of practice and qualifications of an Asian medicine practitioner. All license holders shall bring the form to the attention of the patients in whatever manner the secretary, by rule, provides.

(2) A person violating this section is guilty of a misdemeanor.

Sec. 1.11. RCW 18.06.140 and 2003 c 53 s 122 are each amended to read as follows:

(1) Every ~~((licensed acupuncturist))~~ person licensed under this chapter shall develop a written plan for consultation, emergency transfer, and referral to other health care practitioners operating within the scope of their authorized practices. The written plan shall be submitted with the initial application for licensure as well as annually thereafter with the license renewal fee to the department. The department may withhold licensure or renewal of licensure if the plan fails to meet the standards contained in rules adopted by the secretary.

(2) When ~~((the acupuncturist))~~ a person licensed under this chapter sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the ~~((acupuncturist))~~ practitioner shall immediately request a consultation or recent written diagnosis from a physician licensed under chapter 18.71 or 18.57 RCW. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such physician, acupuncture treatment shall not be continued.

(3) A person violating this section is guilty of a misdemeanor.

Sec. 1.12. RCW 18.06.190 and 1995 c 323 s 13 are each amended to read as follows:

The secretary may license a person without examination if such person is credentialed as an Asian medicine practitioner or licensed acupuncturist, or equivalent, in another jurisdiction if, in the secretary's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state.

Sec. 1.13. RCW 4.24.240 and 1995 c 323 s 1 are each amended to read as follows:

(1)(a) A person licensed by this state to provide health care or related services(~~(r)~~) including, but not limited to, (~~a licensed acupuncturist~~) an Asian medicine practitioner, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician(~~(l)s~~) assistant, osteopathic physician's assistant, nurse practitioner, including, in the event such person is deceased, his or her estate or personal representative;

(b) An employee or agent of a person described in subparagraph (a) of this subsection, acting in the course and scope of his or her employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(c) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subparagraph (a) of this subsection, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, trustee, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative; shall be immune from civil action for damages arising out of the good faith performance of their duties on such committees, where

such actions are being brought by or on behalf of the person who is being evaluated.

(2) No member, employee, staff person, or investigator of a professional review committee shall be liable in a civil action as a result of acts or omissions made in good faith on behalf of the committee; nor shall any person be so liable for filing charges with or supplying information or testimony in good faith to any professional review committee; nor shall a member, employee, staff person, or investigator of a professional society, of a professional examining or licensing board, of a professional disciplinary board, of a governing board of any institution, or of any employer of professionals be so liable for good faith acts or omissions made in full or partial reliance on recommendations or decisions of a professional review committee or examining board.

Sec. 1.14. RCW 4.24.290 and 1995 c 323 s 2 are each amended to read as follows:

In any civil action for damages based on professional negligence against a hospital which is licensed by the state of Washington or against the personnel of any such hospital, or against a member of the healing arts including, but not limited to, an (~~acupuncturist~~) Asian medicine practitioner licensed under chapter 18.06 RCW, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a dentist licensed under chapter 18.32 RCW, a podiatric physician and surgeon licensed under chapter 18.22 RCW, or a nurse licensed under chapter 18.79 RCW, the plaintiff in order to prevail shall be required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise that degree of skill, care, and learning possessed at that time by other persons in the same profession, and that as a proximate result of such failure the plaintiff suffered damages, but in no event shall the

provisions of this section apply to an action based on the failure to obtain the informed consent of a patient.

Sec. 1.15. RCW 7.70.020 and 1995 c 323 s 3 are each amended to read as follows:

As used in this chapter "health care provider" means either:

(1) A person licensed by this state to provide health care or related services(~~(7)~~) including, but not limited to, (~~(a—licensed acupuncturist)~~) an Asian medicine practitioner, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician(~~(15)~~) assistant, midwife, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his or her estate or personal representative;

(2) An employee or agent of a person described in part (1) above, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in part (1) above, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative.

Sec. 1.16. RCW 18.120.020 and 2001 c 251 s 26 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83

RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; (~~acupuncturists~~) Asian medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and nursing assistants registered or certified under chapter 18.88A RCW.

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

Sec. 1.17. RCW 43.70.110 and 2009 c 403 s 5 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency

services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202, until June 30, 2013;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and (~~acupuncturists~~) Asian medicine practitioners licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be

transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

Attachment B

Definitions of Proposed Techniques

Breathing, relaxation, and exercise techniques: techniques of breathing, visualization and movement therapy wherein the practitioner directs the patient in the use of these techniques to improve and maintain health and achieve physical and mental relaxation and strengthening.

Qi gong (“chee gong”): a form of Chinese exercise stimulation therapy that includes techniques of breathing, visualization, and (often) movement. It is based on the theories of Asian medicine yin-yang, the five elements, and a meridian view of the body. Qi gong can be divided into external qi gong, in which the practitioner encourages and directs the free flow of qi (“chee”) (the body’s energy) for the patient, and internal qi gong, wherein a practitioner teaches the techniques to the patient for use by the patient at home.

Health education: educational information directed to the patient that attempts to improve, maintain, promote, and safeguard the health and health care of the patient.

In-office testing of: Temperature, blood pressure, auscultation, weight, body fat percentage, urine, saliva, stool, and blood to assist the practitioner in determining the need for referral to a primary care physician and to assist in treatment. Simple in-office testing of these body fluids for pregnancy, ovulation, urine dipstick analysis, fecal occult blood, cholesterol, homocysteine, blood glucose, HbA1C, pH, etc., by CLIA-waived point of care testing. [Refer to http://www.doh.wa.gov/hsqa/FSL/Documents/LQA_Docs/Waivedtests.pdf.]

Massage: manipulation of the soft tissues of the body for the purpose of normalizing those tissues and consists of manual techniques that include applying fixed or movable pressure, holding, and/or causing movement of or to the body.

Tui na (“twee nah”): a therapeutic form of manual therapy bodywork that originated in China. The application of various Tui Na techniques is based on the theories of Chinese medicine yin-yang, the five elements, and a meridian view of the body. The goal is to encourage free flow of qi (“chee”) (the body’s energy). Tui Na can be used to treat acute conditions as well as for constitutional disharmonies. Tui na techniques include, but are not limited to, massage, acupoint stimulation, and forceful maneuvers including pushing, rolling, kneading, rubbing, and grasping of bones, viscera, and soft tissue.

Heat and cold therapies: direct and indirect application of heat and cold to the body.

Recommendations and dispensing of herbs, vitamins, minerals, and dietary and nutritional supplements: recommendations and dispensing based on the practitioner’s diagnosis of the patient.

Attachment C
Good Laboratory Practices and Waived Test Systems
Page 1 of 2

Modified From the Washington State Department of Health Office of Laboratory Quality Assurance Powerpoint, "Good Laboratory Practices with waived test systems," January 2002

Under Clinical Laboratory Improvement Amendments (CLIA) tests are categorized by complexity: Waived, PPMP, Moderate, High.

Waived tests are defined as simple lab examinations or procedures, cleared by FDA for home use, negligible likelihood of erroneous results, no reasonable risk of harm if performed incorrectly.

"Waived" means waived from most requirements established for tests of higher complexity, site inspections are not routinely performed. proficiency testing is not required, personnel qualifications are not established.

Washington State regulations for waived testing: obtain a Medical Test Site (MTS) license, tell the Washington State Department of Health Office of Laboratory Quality Assurance which waived tests will be performed, follow manufacturer's instructions for performance of the test.

Waived tests are simple, but any test can produce erroneous results if not performed properly. Any test worth running should be associated with good laboratory practices and good risk management practices, such as: have a current product insert and make sure it states "CLIA waived." Focus on these sections: intended use, product storage, precautions/warnings, patient preparation, specimen collection, test procedure, procedural notes, quality control, results/interpretation, limitations, expected results, product storage (kits, reagents, test devices "store refrigerated at 2 – 8 degrees C," "keep 3 months at room temperature," "cassettes must be stored in sealed foil pouches," "store out of sunlight," "strips must be kept in bottle with cap tightly closed"), precautions/warnings: proper handling of kits, reagents, test devices ("do not use past expiration," "do not mix components of different lots or kits," "should not be interpreted by individuals with blue color deficiency (color blindness)," "do not interchange caps on reagents.") Patient preparation: Examples: CLO test "discontinue use of antibiotics and bismuth preparations 3 weeks before biopsy;" Occult blood "for 7 days ... avoid non-steroidal anti-inflammatory drugs, for 3 days ... avoid vitamin C in excess of 250 mg a day, ... avoid red meats ..." (**Note:** if any test requires the discontinuation of a medication prescribed by another medical practitioner, such as the avoidance of non-steroidal anti-inflammatory drugs, the Licensed Acupuncturist will get a written authorization for the test from the prescribing practitioner who will direct the course of the medication.) Specimen collection and handling and acceptable types of specimens: "finger stick or venipuncture," "can be stored at room temperature for 4 hours and up to 72 hours if refrigerated," "do not use swabs that have cotton tips or wooden shafts."

Follow test procedure/directions/instructions: follow exactly, don't modify, adhere to timing. Follow procedural notes: "do not open foil pouch until ready to test ... avoid cross contamination ... read results within 20 minutes," "directions must be followed exactly, accurate timing is essential," "allow specimen and test devices to warm to room temperature before use."

Attachment C, page 2 of 2

Quality control: The types of controls to be tested vary with the specific test system used External, Internal, Electronic. Test controls according to the manufacturer's instructions Read the entire Quality Control section carefully. Assure that results are the expected results for the controls tested. Quality control external controls: reference solutions or materials (i.e., swabs), added to test device like the patient sample, may be included with the test kit or you may need to purchase separately. Compare the control results to the expected ranges or values printed on the control vials or in the control product insert. Quality control: Internal (built-in, procedural) controls, built into test reagent devices to ensure that reagents are active, reagents & samples are added correctly, test performs according to specifications, common with qualitative tests (Strep antigen, pregnancy, H. pylori, mononucleosis), procedural controls typically include the appearance of a colored dot, line or bar in a control region and/or an expected appearance of the device background. Quality control: Electronic controls - Inert, reusable devices (test strips, cartridges, cassettes), used to check instrument performance specifications, available for use with some quantitative test systems (hemoglobin, cholesterol, A1C, prothrombin time), compare the control results with the expected values.

Results/Interpretation: positive, negative, invalid, reportable range of method ("patient values are linear from 2.5% to 14.0%," "linear up to 23.5 g/dl"); Limitations of procedure: causes of false positives, false negatives; Expected results, values.

Good laboratory practices: Test controls - Follow manufacturer instructions: "positive and negative controls should be tested with each new lot or shipment of test materials," "Daily Requirements: two levels of electronic quality control or two levels of liquid controls must be tested..." "a positive and negative control must be tested when opening a new test kit and with each change in operator within the test kit," "check the calibration daily by using the control cuvette."

Good laboratory practices: At minimum, test external controls with each new lot of kits, reagents, or testing devices to detect problems during shipment; Observe internal (built-in, procedural) controls with each patient test to assure proper test performance, reagent integrity; Test electronic controls periodically according to manufacturer's instructions & frequency.

Good laboratory practices: Correlate test results with patient presentation, history, diagnosis; participate in a proficiency testing (PT) program, split sample program: compare your results with reference laboratory.

Training: have new employees read the entire product insert not just the Quick Reference Card, keep a record of training, have each employee demonstrate competency (initially, periodically).

Keep a simple log of results: by keeping results of the following in chronological order, you can detect potential problems: new lots of reagents, kits, testing devices; quality control results; patient test results.

Report test system problems to manufacturer, to Food & Drug Administration's MedWatch Call 1-800-FDA-1088. Direct Questions to the Office of Lab Quality Assurance: (206) 418-5600, website: www.doh.wa.gov

Attachment D
Scope and Techniques from Other States
Page 1 of 7

ALABAMA

Alabama is a state in which there is no legislation or rules authorizing the practice by licensed acupuncturists.

ALASKA AS 08.06 and 12 AAC 05

Sec. 08.06.190. Definitions. In this chapter

- (1) "acupuncture" means a form of healing developed from traditional Chinese medical concepts that uses the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions;
- (2) "department" means the Department of Commerce, Community, and Economic Development;
- (3) "practice of acupuncture" means the insertion of sterile acupuncture needles and the application of moxibustion to specific areas of the human body based upon acupuncture diagnosis; the practice of acupuncture includes adjunctive therapies involving mechanical, thermal, electrical, and electromagnetic treatment and the recommendation of dietary guidelines and therapeutic exercise.

ARKANSAS 17-102-101 Title I 16.B.

SCOPE OF PRACTICE: The practice of oriental medicine in Arkansas is a distinct system of primary health care with the goal of prevention, cure, or correction of any illness, injury pain or other physical or mental condition by controlling and regulating the flow and balance of energy and functioning of the person to restore and maintain health. Oriental medicine includes all traditional and modern diagnostic, prescriptive and therapeutic methods utilized by practitioners of acupuncture and oriental medicine world wide. The scope of practice of Doctors of Oriental Medicine shall include but is not limited to:

Evaluation and management services.

Examination and diagnostic testing.

The ordering of radiological, laboratory or other diagnostic tests.

The procedures of Acupuncture and other related procedures.

The stimulation of points or areas of the body using needles, heat, cold, light, lasers, sound, vibration, magnetism, electricity, bleeding, suction, pressure, Gua Sha, or other devices or means.

Physical medicine modalities and techniques.

Therapeutic exercises, breathing techniques, meditation, and the use of biofeedback and other devices that utilize color, light, sound, electromagnetic energy and other means therapeutically.

Dietary and nutritional counseling and the administration of food, beverages and dietary supplements therapeutically.

The prescription or administration of any herbal medicine, homeopathic medicine, or substances such as vitamins, minerals, enzymes, glandulars, amino acids and nutritional or dietary supplements, unless otherwise prohibited by State or federal law or regulation.

Counseling regarding physical, emotional and spiritual balance in lifestyle.

ARIZONA 32-3901

1. "Acupuncture" means puncturing the skin by thin, solid needles to reach subcutaneous structures, stimulating the needles to affect a positive therapeutic response at a distant site and the use of adjunctive therapies.

2. "Adjunctive therapies" means the manual, mechanical, magnetic, thermal, electrical or electromagnetic stimulation of acupuncture points and energy pathways, auricular and detoxification therapy, ion cord devices, electroacupuncture, herbal poultices, therapeutic exercise and acupressure.

Delaware

Delaware is a state in which there is no legislation or rules authorizing the practice by licensed acupuncturists

Florida

STATUTE Chapter 457.102

"Acupuncture shall include, but not be limited to, the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body and the use of **electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies**, as defined by board rule."

Florida RULES

64B1-3.001 Definitions.

(1) Acupuncture means a form of primary health care based on traditional Chinese medical concepts, that employs acupuncture diagnosis and treatment, as well as adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. Acupuncture shall include but not be limited to the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body.

(2) Acupuncture shall include, but not be limited to:

(a) Auricular, hand, nose, face, foot and/or scalp acupuncture therapy;

(b) Stimulation to acupuncture points and channels by use of any of the following:

1. Needles, moxibustion, cupping, **thermal methods**, magnets, gwa-sha scraping techniques, acupatches, and acuform;

2. Manual stimulation including acutotement (which is defined as stimulation by an instrument that does not pierce the skin), **massage, acupressure**, reflexology, shiatsu, and tui-na;

3. Electrical stimulation including electro-acupuncture, percutaneous and transcutaneous electrical nerve stimulation;

4. Laser biostimulation in accordance with relevant federal law including Food and Drug Administration rules and regulations, providing written notice of such intended use together with proof of compliance with federal requirements are received by the Board of Acupuncture not less than 14 days prior to first time use.

(3) **Acupuncture diagnostic techniques shall include but not be limited to** the use of observation, listening, smelling, inquiring, palpation, pulses, tongue, physiognomy, five element correspondence, ryodoraku, akabani, German electro acupuncture, Kirlian photography, and **thermography**.

(4) The needles used in acupuncture shall be solid filiform instruments which shall include but not be limited to: dermal needles, plum blossom needles, press needles, prismatic needles and disposable lancets. The use of staples in the practice of acupuncture shall be prohibited.

(5) Adjunctive therapies shall include but not be limited to:

(a) **Nutritional counseling and the recommendation of nonprescription substances which meet the Food and Drug Administration labeling requirements, as dietary supplements to promote health;**

(b) **Recommendation of breathing techniques and therapeutic exercises;**

(c) **Lifestyle and stress counseling;**

(d) **The recommendation of all homeopathic preparations approved by the Food and Drug Administration and the United States Homeopathic Pharmacopeia Committee; and**

(e) **Herbology.**

Specific Authority 457.102, 457.104 FS. Law Implemented 457.102 FS. History—New 8-13-84, Amended 9-19-84, Formerly 21AA-3.01, Amended 12-14-87, 9-3-89, 5-30-91, 1-26-92, 2-27-92, Formerly 21AA-3.001, 61F1-3.001, 59M-3.001, Amended 9-6-06.

GEORGIA

(4) "Practice of acupuncture" means the insertion of disposable acupuncture needles and the application of moxibustion to specific areas of the human body based upon Oriental medical principles as a therapeutic modality. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, **herbal, thermal**, electrical, and electromagnetic treatment and **the recommendation of dietary guidelines and exercise, but only if such treatments, recommendations, and exercises are based on concepts of traditional Oriental medicine and are directly related to acupuncture therapy.**

CALIFORNIA

(d) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of

California, continued:

certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

COLORADO

(3.5) "Practice of acupuncture" means the insertion and removal of acupuncture needles, the application of **heat therapies** to specific areas of the human body, and traditional oriental adjunctive therapies. Traditional oriental adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, the recommendation of **oriental therapeutic exercises**, and, subject to federal law, the **recommendation of herbs and dietary guidelines**.

D.C. (District of Columbia) statute not indicated:

<http://hpla.doh.dc.gov/hpla/cwp/view,A,1195,Q,488806,hplaNav,|30661|.asp>

Acupuncture is a health care service based on an Oriental system of medical theory. Acupuncture uses Oriental diagnosis and treatment to promote health and treat organic or functional disorders through specific acupuncture points or meridians. Acupuncture includes the following techniques:

Use of acupuncture needles to stimulate acupuncture points and meridians

Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians

Moxibustion

Acupressure

Cupping

Dermal friction technique

Infra-red

Sonopuncture

Laserpuncture

Point injection therapy (aquapuncture)

Dietary advice based on Oriental medical theory provided in conjunction with all techniques listed above

HAWAII HRS Chapter 16-72

§16-72-4 Authorized practice of acupuncture. An acupuncture practitioner is authorized to conduct treatment of the human body by means of stimulation of a certain acupuncture point or points for the purpose of controlling and regulating the flow and balance of energy in the body. The practice includes the techniques of piercing the skin by inserting needles and point stimulation by the use of acupressure, electrical, mechanical, **thermal therapy**, moxibustion, cupping, or traditional therapeutic means.

IDAHO

(1) "Acupuncture" means that theory of health care developed from traditional and modern Oriental medical philosophies that employs diagnosis and treatment of conditions of the human body based upon stimulation of specific acupuncture points on meridians of the human body for the promotion, maintenance, and restoration of health and for the prevention of disease. Therapies within the scope of acupuncture include manual, **mechanical, thermal, electrical and electromagnetic treatment of such specific indicated points. Adjunctive therapies included in, but not exclusive to, acupuncture include herbal and nutritional treatments, therapeutic exercise and other therapies based on traditional and modern Oriental medical theory.**

ILLINOIS

"Acupuncture" means the evaluation or treatment of persons affected through a method of stimulation of a certain point or points on or immediately below the surface of the body by the insertion of pre-sterilized, single-use, disposable needles, unless medically contraindicated, **with or without the application of heat**, electronic stimulation, or manual pressure to prevent or modify the perception of pain, to normalize physiological functions, or for the treatment of certain diseases or dysfunctions of the body and includes activities referenced in Section 15 of this Act for which a written referral is not required. Acupuncture does

not include radiology, electrosurgery, chiropractic technique, physical therapy, naprapathic technique,
use

or prescribing of any drugs, medications, herbal preparations, nutritional supplements, serums, or vaccines, or determination of a differential diagnosis. An acupuncturist registered under this Act who is not also licensed as a physical therapist under the Illinois Physical Therapy Act shall not hold himself or herself out as being qualified to provide physical therapy or physiotherapy services. An acupuncturist shall refer to a licensed physician or dentist, any patient whose condition should, at the time of evaluation or treatment, be determined to be beyond the scope of practice of the acupuncturist.

INDIANA

"Acupuncture"

Sec. 2. "Acupuncture" means a form of health care employing traditional and modern Oriental medical concepts, Oriental medical diagnosis and treatment, and **adjunctive therapies and diagnostic techniques** for the promotion, maintenance, and restoration of health and the prevention of disease.

IC 25-2.5-1-5

"Practice of acupuncture"

Sec. 5. "Practice of acupuncture" means the insertion of acupuncture needles, the application of moxibustion to specific areas of the human body based upon Oriental medical diagnosis as a primary mode of therapy, and other means of applying acupuncture under this chapter.

As added by P.L.265-1999, SEC.1.

IOWA

CHAPTER 148E

148-E1. "Acupuncture" means promoting, maintaining, or restoring health based on traditional oriental medical concepts of treating specific areas of the human body, known as acupuncture points or meridians, by performing any of the following practices:

- a. Inserting acupuncture needles.
- b. Moxibustion.
- c. Applying manual, **conductive thermal**, or electrical stimulation through use of acupuncture needles or any other secondary therapeutic technique except for use of other electromagnetic or ultrasound energy sources.

MARYLAND

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 26 BOARD OF ACUPUNCTURE

Chapter 02 General Regulations

(8) "Practice acupuncture" means the use of oriental medical therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance, and restoration of health including:

- (a) Stimulation of points of a human or animal body by the insertion of acupuncture needles;
- (b) The application of moxibustion; and
- (c) Manual, mechanical, **thermal**, or electrical therapies only when performed in accordance with the principles of oriental acupuncture medical theories.

MAINE

BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS HEADING

1. Acupuncture. "Acupuncture" means the insertion of fine metal needles through the skin at specific points on or near the surface of the body with or without the palpation of specific points on the body and **with or without the application of electric current or heat** to the needles or skin, or both. The practice of acupuncture is based on traditional oriental theories and serves to normalize physiological function, treat certain diseases and dysfunctions of the body, prevent or modify the perception of pain and promote health and well-being.

[2003, c. 666, §1 (AMD) .]

§12401. Maine Acupuncture Licensing Board
(REPEALED)

MINNESOTA

Chapter 147B. ACUPUNCTURE PRACTITIONERS

.Acupuncture practice.

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

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 NCCAOM certification exam.

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 onetime only use product.

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.

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.

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"Acupuncture", the use of needles inserted into the body by piercing of the skin and related modalities for the assessment, evaluation, prevention, treatment or correction of any abnormal physiology or pain by means of controlling and regulating the flow and balance of energy in the body so as to restore the body to its proper functioning and state of health;

NEW MEXICO

Title 16 - Occupational and Professional Licensing

16.2.2.8 SCOPE OF PRACTICE: Pursuant to Section 61-14A-3 NMSA 1978, the practice of oriental medicine in New Mexico is a distinct system of primary health care with the goal of prevention, cure, or correction of any disease, illness, injury, pain or other physical or mental condition by controlling and regulating the flow and balance of energy and functioning of the person to restore and maintain health. Oriental medicine includes all traditional and modern diagnostic, prescriptive and therapeutic methods utilized by practitioners of acupuncture and oriental medicine worldwide. The scope of practice of doctors of oriental medicine shall include but is not limited to:

- A. evaluation, management and treatment services;
- B. diagnostic examination, testing and procedures;
- C. the ordering of diagnostic imaging procedures and laboratory or other diagnostic tests;
- D. the surgical procedures of acupuncture and other related procedures, as well as injection therapy; injection therapy may only be performed by a doctor of oriental medicine who is certified for the extended (Rx1) or expanded (Rx2) prescriptive authority pursuant to 16.2.2.10 and 16.2.2.11 NMAC (Sections 10 and 11 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);

- E. the stimulation of points, areas of the body or substances in the body using qi, needles, heat, cold, color, light, infrared and ultraviolet, lasers, sound, vibration, pressure, magnetism, electricity, electromagnetic energy, bleeding, suction, or other devices or means;
- F. physical medicine modalities, procedures and devices; spray and stretch techniques using prescription vapocoolants may only be performed by a doctor of oriental medicine who is certified for the extended (Rx1) or expanded (Rx2) prescriptive authority pursuant to 16.2.2.10 NMAC (Section 10 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);
- G. therapeutic exercises, qi exercises, breathing techniques, meditation, and the use of biofeedback devices and other devices that utilize heat, cold, color, light, infrared and ultraviolet, lasers, sound, vibration, pressure, magnetism, electricity, electromagnetic energy and other means therapeutically;
- H. dietary and nutritional counseling and the prescription or administration of food, beverages and dietary supplements therapeutically;
- I. counseling and education regarding physical, emotional and spiritual balance in lifestyle;
- J. the prescription or administration of any herbal medicine, homeopathic medicine, vitamins, minerals, enzymes, glandular products, natural substances, protomorphogens, live cell products, gerovital, amino acids and dietary and nutritional supplements; the injection of any of the above substances may only be performed by a doctor of oriental medicine who is certified for the extended (Rx1) or expanded (Rx2) prescriptive authority pursuant to 16.2.2.10 and 16.2.2.11 NMAC (Sections 10 and 11 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);
- K. the prescription or administration of cosmetics, biological products including therapeutic serum and over the counter drugs other than those enumerated in Section 61-14A-3.G.(2) of the act by a doctor of oriental medicine who is certified for the extended (Rx1) or expanded (Rx2) prescriptive authority pursuant to 16.2.2.10 and 16.2.2.11 NMAC (Sections 10 and 11 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);
- L. the prescription or administration of sterile water, sterile saline, sarapin or its generic and vapocoolants by a doctor of oriental medicine who is certified for the extended (Rx1) or expanded (Rx2) prescriptive authority pursuant to 16.2.2.10 and 11 NMAC (Sections 10 and 11 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);
- M. the prescription or administration of caffeine, procaine, oxygen, epinephrine, bioidentical hormones and those substances listed in the prescriptive authority formulary defined in 16.2.2.13 NMAC (Section 13 of Part 2 of the rules) by a doctor of oriental medicine who is certified for the expanded prescriptive authority (Rx2) pursuant to 16.2.2.11 NMAC (Section 11 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);
- N. the prescription or administration of devices, restricted devices and prescription devices as defined in the New Mexico Drug, Device and Cosmetic Act (Section 26-1-1 NMSA 1978) by a doctor of oriental medicine who meets the requirements of 16.2.2.9 NMAC (Section 9 of Part 2 of the rules).
[16.2.2.8 NMAC - Rp, 16.2.2.8 NMAC, 02-15-05]

MASSACHUSETTES

PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE XVI. PUBLIC HEALTH

CHAPTER 112. REGISTRATION OF CERTAIN PROFESSIONS AND OCCUPATIONS

REGISTRATION OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

Chapter 112: Section 148. Definitions

“Acupuncture”, the practice of medicine based on Traditional Oriental Medical Theories; primarily the insertion of metal needles through the skin at certain points on the body, with or without the application of electric current, and with or without the application of heat to the needles, skin, or both, in an attempt to relieve pain or improve body function. Electroacupuncture, whether utilizing electrodes on the surface of the skin or current applied to inserted needles will be considered the practice of acupuncture.

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DIVISION 70
ACUPUNCTURE
847-070-0005

"Acupuncture" means an Oriental health care practice used to promote health and to treat neurological, organic or functional disorders by the stimulation of specific points on the surface of the body by the insertion of needles. "Acupuncture" includes the treatment method of moxibustion, as well as the use of electrical, **thermal**, mechanical or magnetic devices, with or without needles, to stimulate acupuncture points and acupuncture meridians and to induce acupuncture anesthesia or analgesia.(a) The practice of acupuncture also includes the following modalities as authorized by the Oregon Medical Board for the State of Oregon:

- (A) Traditional and modern Oriental Medical and acupuncture techniques of diagnosis and evaluation;
- (B) **Oriental massage, exercise and related therapeutic methods;** and
- (C) The use of **Oriental pharmacopoeia, vitamins, minerals and dietary advice.**

TEXAS
THIS DOCUMENT IS CURRENT THROUGH ALL 2003 REG. SESSION LEGISLATION
OCCUPATIONS CODE
TITLE 3.HEALTH PROFESSIONS
SUBTITLE C.OTHER PROFESSIONS PERFORMING MEDICAL PROCEDURES
CHAPTER 205.ACUPUNCTURE
SUBCHAPTER A.GENERAL PROVISIONS
§205.001. Definitions

2) "Acupuncture" means:

- (A) the nonsurgical, nonincisive insertion of an acupuncture needle and the application of moxibustion to specific areas of the human body as a primary mode of therapy to treat and mitigate a human condition, including evaluation and assessment of the condition; and
- (B) the administration **of thermal** or electrical treatments or the **recommendation of dietary guidelines, energy flow exercise, or dietary or herbal supplements in conjunction with the treatment described by Paragraph (A).**

Attachment E

Page 1 of 2

Professional Code of Ethics from the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)

All practitioners certified by the National Certification Commission for Acupuncture and Oriental Medicine must be committed to responsible and ethical practice, to the growth of the profession's role in the broad spectrum of American health care, and to their own professional growth. All Diplomates, Applicants and Candidates for certification agree to be bound by the NCCAOM Code of Ethics.

A. Commitment to the Patient

1. Respect the rights and dignity of each person I treat.
2. Accept and treat those seeking my services in a nondiscriminatory manner.
3. Keep the patient informed by explaining treatments and outcomes.
4. Protect the confidentiality of information acquired in the course of patient care.
5. Maintain professional boundaries in relationships with patients and avoid any relationships that may exploit practitioner/patient trust.
6. Keep accurate records of each patient's history and treatment.
7. Treat only within my lawful scope of practice.
8. Render the highest quality of care and make timely referrals to other health care professionals as may be appropriate.
9. Avoid treating patients if I am unable to safely and effectively treat due to substance abuse, physical or psychological impairment.
10. Bill patients and third party payers accurately and fairly.
11. Not engage in sexual contact with a current patient if the contact commences after the practitioner/patient relationship is established.
12. Not engage in sexual contact with a former patient unless a reasonable period of time has elapsed since the professional relationship ended and the sexual contact does not exploit the trust established during the professional relationship.

B. Commitment to the Profession

1. Continue to work to promote the highest standards of the profession.
2. Provide accurate, truthful, and non-misleading information in connection with any application for licensure, certification, NCCAOM disciplinary investigation or proceeding or recertification.
3. Report any changes to the information on my application regarding professional ethics and my on-going fitness to practice, including but not limited to reporting to the NCCAOM any disciplinary action taken by a school or regulating agency against me, and any criminal charges or civil actions that may be relevant to my health care practice or fitness to practice.
4. Comply with NCCAOM Examination Policies.
5. Report to NCCAOM or appropriate licensing authorities information about any violations by me or by my peers of the Code of Ethics or Grounds for Professional Discipline.

C. Commitment to the Public

1. Provide accurate information regarding my education, training and experience, professional affiliations, and certification status.

Attachment E: Page 2 of 2

2. Refrain from any representation that NCCAOM certification implies licensure or a right to practice unless so designated by the laws in the jurisdiction in which I practice.
3. Use only the appropriate professional designations for my credentials.
4. Advertise only accurate, truthful, non-misleading information and refrain from making public statements on the efficacy of Oriental medicine that are not supported by the generally accepted experience of the profession.
5. Respect the integrity of other forms of health care and other medical traditions and seek to develop collaborative relationships to achieve the highest quality of care for individual patients.
6. Comply with all public health and public safety reporting duties imposed on licensed health care professionals.