Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2191
(Senators Unruh, Holmberg, Mathern)
(Representatives Rick C. Becker, Boschee, Meier)

AN ACT to create and enact a new subsection to section 43-17-02 and chapter 43-61 of the North Dakota Century Code, relating to the regulation of acupuncturists; to amend and reenact sections 43-17-41, 43-57-01, 43-57-03, 43-57-06, 43-57-07, and 43-57-11 of the North Dakota Century Code, relating to duties of acupuncturists and the board of integrative health care; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 43-17-02 of the North Dakota Century Code is created and enacted as follows:

An acupuncturist duly licensed to practice in this state pursuant to the statutes regulating such profession.

SECTION 2. AMENDMENT. Section 43-17-41 of the North Dakota Century Code is amended and reenacted as follows:

43-17-41. Duty of physicians and others to report injury - Penalty.

1. Any physician, physician assistant, naturopath licensed under chapter 43-58, acupuncturist licensed under chapter 43-61, or any individual licensed under chapter 43-12.1 who performs any diagnosis or treatment for any individual suffering from any wound, injury, or other physical trauma:

   a. Inflicted by the individual's own act or by the act of another by means of a knife, gun, or pistol shall as soon as practicable report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered; or

   b. Which the individual performing diagnosis or treatment has reasonable cause to suspect was inflicted in violation of any criminal law of this state, shall as soon as practicable report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered.

2. The report under subsection 1 must state the name of the injured individual and the character and extent of the individual's injuries.

3. When a report of domestic violence, as defined in section 14-07.1-01, or a report of physical injury resulting from a sexual offense, as defined in chapter 12.1-20, is made to a law enforcement agency as required by this section, the injured individual must be provided with information regarding a domestic violence sexual assault organization as defined in section 14-07.1-01 or other victims' assistance program by the physician, physician assistant, naturopath, acupuncturist licensed under chapter 43-61, or any individual licensed under chapter 43-12.1, unless it is known that the information has previously been provided to the injured individual.

4. The reports mandated by this section must be made as soon as practicable and may be either oral or in writing. Oral reports must be followed by written reports within forty-eight hours if so requested by the sheriff or state's attorney to whom the oral report is originally made.

5. Any individual required to report as provided by this section who willfully fails to do so is guilty of an infraction.

6. Any individual making or not making a report in good faith pursuant to this section is immune from liability for making or not making a report.

SECTION 3. AMENDMENT. Section 43-57-01 of the North Dakota Century Code is amended and reenacted as follows:

43-57-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the state board of integrative health care.

2. "Licensee" means an individual licensed by the board under this chapter and under chapter 43-58 ~~or~~, 43-59, or 43-61.

SECTION 4. AMENDMENT. Section 43-57-03 of the North Dakota Century Code is amended and reenacted as follows:

43-57-03. Powers and duties of board.

1. The board shall adopt rules:

   a. To administer and enforce this chapter and chapters 43-58 ~~and~~, 43-59, and 43-61;

   b. That specify the scope of practice, which must be consistent with the required education for each profession regulated by the board;

   c. That endorse equivalent licensure examinations of another state or foreign country and which may include licensure by reciprocity;

   d. That establish educational standards for each profession regulated by the board as appropriate; and

   e. That set fees for licensure, which may include:

      (1) Application fee;

      (2) License fee;

      (3) Renewal fee;

      (4) Late fee;

      (5) Administrative fees; and

      (6) Continuing education fees.

2. The board shall produce an annual list of the names and level of licensure of all individuals licensed by the board and make the list available upon request.

3. The board may employ staff and provide for staff compensation.

4. The board shall receive all moneys collected under this chapter, chapter 43-58, ~~and chapter~~ 43-59, and 43-61 and shall deposit and disburse all fees and moneys collected in accordance with section 54-44-12.

5. The board may establish continuing education requirements for license renewal.

6. The board may adopt a code of ethics for each profession regulated by the board.

7. The board may adopt rules allowing students to practice under licensed supervision.

SECTION 5. AMENDMENT. Section 43-57-06 of the North Dakota Century Code is amended and reenacted as follows:

43-57-06. Issuance of license.

If the board determines that an applicant possesses the qualifications required under this chapter and under chapter 43-58 ~~or~~, 43-59, or 43-61, the board shall issue a license to the applicant.

SECTION 6. AMENDMENT. Section 43-57-07 of the North Dakota Century Code is amended and reenacted as follows:

43-57-07. License renewal - Continuing education.

1. A license is effective when granted by the board.

2. A license issued under chapter 43-58 or 43-59 expires on December thirty-first of every odd-numbered year. A license issued under chapter 43-61 expires on December thirty-first of every even-numbered year.

3. A license may be renewed by payment of the renewal fee and completion of any continuing education requirements set by the board, provided the applicant's license is not currently revoked or grounds for denial do not exist.

4. If the application for renewal is not received on or before the expiration date, the license expires and the individual may not practice until a new application is made and a license is granted by the board.

5. At the time of renewal, the board shall require each applicant to present satisfactory evidence that the applicant has completed any continuing education requirements specified by the board.

6. If a license has not been renewed as a result of nonpayment of the renewal fee or the failure of the licensee to present satisfactory evidence of completion of any continuing education requirements, the licensee must reapply for licensure.

7. The board may extend the renewal deadline for an applicant having proof of medical or other hardship rendering the applicant unable to meet the renewal deadline.

SECTION 7. AMENDMENT. Section 43-57-11 of the North Dakota Century Code is amended and reenacted as follows:

43-57-11. Enforcement - Penalty.

A person that violates this chapter~~,~~ or chapter 43-58, ~~or chapter~~ 43-59, or 43-61 is guilty of a class B misdemeanor. In addition to the criminal penalties provided under this section, the civil remedy of injunction is available to restrain and enjoin any violation of this chapter~~,~~ or chapter 43-58, ~~or chapter~~ 43-59, or 43-61 without proof of actual damages sustained by any person.

SECTION 8. Chapter 43-61 of the North Dakota Century Code is created and enacted as follows:

43-61-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Acupuncture" means an East Asian system of health care that maintains and restores the health of patients through treatments that include patient education, botanical medicine, qi

gong, tai qi, or the stimulation of a certain point or points on or below the surface of the body, including traditional meridian points and ashi trigger points by the insertion of presterilized, filiform, disposable needles with or without electronic stimulation or by utilizing manual or thermal techniques.

2. "Acupuncturist" means an individual licensed to practice acupuncture under this chapter.

3. "Approved acupuncture program" means a board-approved graduate level educational program that is offered by an institution of higher education and accredited by a national or regional agency recognized by the United States department of education, or another such equivalent program approved by the board which:

   a. Is accredited, has the status of candidate for accreditation, or meets the standards of an organization approved by the board, such as the accreditation commission of acupuncture and oriental medicine.

   b. Has been approved by the board after an investigation that determines that the college or program meets education standards equivalent to those established by the accrediting agency under subdivision a and complies with the board's rules.

4. "Board" means the state board of integrative health care created under chapter 43-57.

43-61-02. Exemptions.

Some of the therapies used by an acupuncturist, such as the use of botanical medicine, foods, and such physical forces as needling and touch are not the exclusive privilege of acupuncturists. This chapter does not restrict or apply to the scope of practice of any other profession licensed, certified, or registered under the laws of this state.

43-61-03. License required - Title restrictions.

1. Effective January 1, 2016, an individual may not practice any form of acupuncture without a current acupuncture license issued by the board.

2. An acupuncturist may use the title "Licensed Acupuncturist" and the abbreviation "LAc" when used to reflect that title. Effective January 1, 2016, an individual who uses these terms or initials as identification without having received an acupuncture license under this chapter is engaging in the practice of acupuncture without a license.

43-61-04. Qualifications for licensure.

To obtain a license to practice acupuncture in this state, an application must be made to the board. The application must be upon the form adopted by the board and must be made in the manner prescribed by the board.

43-61-05. Application for licensure.

1. An applicant for acupuncture licensure shall file an application on forms provided by the board showing to the board's satisfaction that the applicant is of good moral character and satisfied all of the requirements of this chapter and chapter 43-57, including:

   a. Successful completion of an approved acupuncture program;

   b. Successful completion of an examination prescribed or endorsed by the board, such as the national certification commission for acupuncture and oriental medicine;

   c. Physical, mental, and professional capability for the practice of acupuncture in a manner acceptable to the board; and

d. A history free of any finding by the board, any other state licensure board, or any court of competent jurisdiction of the commission of any act that would constitute grounds for disciplinary action under this chapter and chapter 43-57. The board may modify this restriction for cause.

2. The application must be accompanied by the board-established license fees and application fees and by the documents, affidavits, and certificates necessary to establish that the applicant possesses the necessary qualifications.

43-61-06. Initial applications - Education testing exception.

Notwithstanding the education and examination requirements for licensure under subdivisions a and b of subsection 1 of section 43-61-05, if an applicant was a bona fide resident of the state from January 1, 2015, through December 31, 2015, was practicing acupuncture in this state immediately preceding January 1, 2016, was required to apply for licensure under this chapter in order to continue that practice, and does not meet the educational or examination requirements or both, the board may issue a license or limited license to that applicant if, following an examination of the applicant's education and experience, the board determines the applicant has sufficient education and experience to prepare the applicant to practice acupuncture.

43-61-07. Licensure granted without examination to individuals licensed in other states.

1. The board may issue an acupuncture license by endorsement to an applicant who complies with licensure requirements and who passed an examination given by a recognized certifying agency approved by the licensing agency if the board determines the examination was equivalent in every respect to the examination required under this chapter.

2. The board may enter reciprocal agreements with licensing agencies of other states providing for reciprocal waiver of further examination or any part of the examination.

3. If an applicant is exempt from the examination required under this chapter, the applicant shall comply with the other requirements for licensure. The board may adopt rules allowing for temporary and special licensure to be in effect during the interval between board meetings.

43-61-08. Practice of acupuncture.

1. An acupuncturist may practice acupuncture as a limited practice of the healing arts as exempted under section 43-17-02. An acupuncturist may not:

   a. Prescribe, dispense, or administer any prescription drug; or

   b. Claim to practice any licensed health care profession or system of treatment other than acupuncture unless holding a separate license in that profession.

2. An acupuncturist may prescribe and administer for preventive and therapeutic purposes the following therapeutic substances and methods:

   a. Patient education, botanical medicine, qi gong, and tai qi; and

   b. The stimulation of a certain point or points on or below the surface of the body, including traditional meridian points and ashi trigger points by the insertion of presterilized, filiform, or disposable needles with or without electronic stimulation or by utilizing manual or thermal techniques.

43-61-09. Public health duties.

An acupuncturist has the same duties as a licensed physician with regard to public health laws, reportable diseases and conditions, communicable disease control and prevention, and local boards of

health, except that the authority and responsibility are limited to activities consistent with the scope of practice established under this chapter and chapter 43-57.

43-61-10. Employment by hospitals.

A hospital may employ an acupuncturist in the same manner as provided under section 43-17-42.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2191.

Senate Vote:	Yeas 45	Nays 1	Absent 1
House Vote:	Yeas 81	Nays 10	Absent 3

Secretary of the Senate

Received by the Governor at 2:21 P.M. on March 20, 2015.

Approved at 9:44 A.M. on March 23, 2015.

Governor

Filed in this office this 23rd day of March, 2015,

at 12:07 o'clock P.M.

Secretary of State