

ACUPUNCTURE LICENSING ACT

AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. McCoy

House Sponsor: Christine A. Johnson

LONG TITLE

General Description:

This bill modifies provisions of the Acupuncture Licensing Act.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of the practice of acupuncture and changes the designation of "acupuncturist" to "licensed acupuncturist";
- ▶ modifies provisions regarding the licensing and the renewal of a license of an acupuncturist;
- ▶ makes conforming changes in the manner in which the title "licensed acupuncturist" may be used with an individual's name and practice;
- ▶ modifies a provision dealing with presumptions related to third party insurance payments to a person practicing acupuncture; and
- ▶ makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **58-72-102**, as last amended by Chapter 109, Laws of Utah 2006
 29 **58-72-201**, as last amended by Chapter 26, Laws of Utah 1998
 30 **58-72-302**, as repealed and reenacted by Chapter 26, Laws of Utah 1998
 31 **58-72-303**, as repealed and reenacted by Chapter 26, Laws of Utah 1998
 32 **58-72-501**, as last amended by Chapter 26, Laws of Utah 1998
 33 **58-72-601**, as renumbered and amended by Chapter 253, Laws of Utah 1996

35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **58-72-102** is amended to read:

37 **58-72-102. Acupuncture licensing -- Definitions.**

38 In addition to the definitions in Section 58-1-102, as used in this chapter:

39 ~~[(1) "Acupuncturist" means a person who has been licensed under this chapter to~~
 40 ~~practice acupuncture.]~~

41 ~~[(2)]~~ (1) "Board" means the Acupuncture Licensing Board created in Section
 42 58-72-201.

43 (2) "Licensed acupuncturist," designated as "L.Ac.," means a person who has been
 44 licensed under this chapter to practice acupuncture.

45 (3) "Moxibustion" means a heat therapy that uses the herb moxa to heat acupuncture
 46 points of the body.

47 (4) (a) "Practice of acupuncture" means the insertion of acupuncture needles and
 48 application of moxibustion to specific areas of the [human] body based on traditional oriental
 49 medical diagnosis and concepts as a primary mode of therapy.

50 (b) Adjunctive therapies within the scope of acupuncture may include:

51 (i) manual, mechanical, thermal, electrical, ~~§~~→ light, ←~~§~~ and electromagnetic treatments
 51a based on
 52 traditional oriental medical diagnosis and concepts;

53 (ii) the recommendation of dietary guidelines, herbs, supplements, and therapeutic
 54 exercise based on traditional oriental medical diagnosis and concepts according to practitioner
 55 training; and

56 (iii) the practice described in ~~[this Subsection]~~ Subsections (4)(a) and (b) on an animal
 57 to the extent permitted by:

58 (A) Subsection 58-28-307(12);

59 (B) the provisions of this chapter; and

60 (C) division rule.

61 [~~(b)~~] (c) "Practice of acupuncture" does not include:

62 (i) the manual manipulation or adjustment of the joints of the [human] body beyond the
63 elastic barrier; or

64 (ii) the "manipulation of the articulation of the spinal column" as defined in Section
65 58-73-102.

66 (5) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-72-503, and as
67 may be further defined by rule.

68 Section 2. Section **58-72-201** is amended to read:

69 **58-72-201. Acupuncture Licensing Board.**

70 (1) There is created an Acupuncture Licensing Board consisting of:

71 (a) two licensed acupuncturists;

72 (b) one physician with knowledge of and experience in acupuncture;

73 (c) one other licensed health care practitioner with knowledge of and experience in
74 acupuncture; and

75 (d) one member from the general public.

76 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

77 (3) (a) The duties and responsibilities of the board shall be in accordance with Sections
78 58-1-202 and 58-1-203.

79 (b) In addition, the board shall designate one of its members on a permanent rotating
80 basis to:

81 [~~(a)~~] (i) assist the division in reviewing complaints concerning the unlawful or
82 unprofessional conduct of a licensee; and

83 [~~(b)~~] (ii) advise the division in its investigation of these complaints.

84 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
85 in its investigation may be disqualified from participating with the board when the board serves
86 as a presiding officer in an adjudicative proceeding concerning the complaint.

87 Section 3. Section **58-72-302** is amended to read:

88 **58-72-302. Qualification for licensure.**

89 Notwithstanding Section 58-1-302, [~~all applicants~~] an applicant for licensure as [~~an~~] a

90 licensed acupuncturist shall:

- 91 (1) submit an application in a form prescribed by the division;
- 92 (2) pay a fee determined by the department under Section 63-38-3.2;
- 93 (3) be of good moral character;
- 94 (4) meet the requirements for current active certification in acupuncture under
- 95 guidelines established by the National Commission for the Certification of [~~Acupuncturists~~
- 96 ~~(NCCA)~~ Acupuncture and Oriental Medicine (NCCAOM) as demonstrated through a current
- 97 certificate or other appropriate documentation;
- 98 (5) pass the examination required by the division by rule;
- 99 (6) establish procedures, as defined by rule, which shall enable patients to give
- 100 informed consent to treatment; and
- 101 (7) meet with the board, if requested, for the purpose of evaluating the applicant's
- 102 qualifications for licensure.

103 Section 4. Section **58-72-303** is amended to read:

104 **58-72-303. Terms of license -- Expiration -- Renewal.**

105 (1) (a) Each license issued under this chapter shall be issued in accordance with a

106 two-year renewal cycle established by rule.

107 (b) A renewal period may be extended or shortened by as much as one year to maintain

108 established renewal cycles or to change an established renewal cycle.

109 (2) Each license automatically expires on the expiration date shown on the license

110 unless renewed by the licensee in accordance with Section 58-1-308.

111 (3) Renewal qualifications shall include:

112 (a) either documentation of current and active NCCAOM certification; or

113 (b) meeting the same professional development requirements as those licensed under

114 this chapter.

115 Section 5. Section **58-72-501** is amended to read:

116 **58-72-501. Acupuncture licensee -- Restriction on titles used.**

117 (1) (a) A person practicing as [~~an~~] licensed acupuncturist may not display or in any

118 way use any title, words, or insignia in conjunction with [~~his~~] the person's name or practice

119 except the [~~word~~] words "licensed acupuncturist[.]" or "L.Ac."

120 (b) When used in conjunction with the person's practice, the term "licensed

121 acupuncturist" or "L.Ac." shall be displayed next to the name of the licensed acupuncturist.

122 (2) [~~Art~~] (a) A licensed acupuncturist may not use the term "physician," "physician or
123 surgeon," or "doctor" in conjunction with [~~his~~] the acupuncturist's name or practice.

124 (b) "Doctor of acupuncture" or "oriental medical doctor" may be used if the term is
125 commensurate with the degree in acupuncture received by the practitioner.

126 (3) Medical doctors or chiropractors who choose to practice acupuncture shall
127 represent themselves as medical doctors or chiropractors practicing acupuncture and not as
128 licensed acupuncturists.

129 Section 6. Section **58-72-601** is amended to read:

130 **58-72-601. Acupuncture license not authorizing medical practice -- Insurance**
131 **payments.**

132 Nothing in this chapter may be construed to permit the practice of medicine nor require
133 direct payment from third party insurers directly to [~~acupuncturists~~] a person engaged in the
134 practice of acupuncture.

Legislative Review Note
as of 11-21-06 11:22 AM

Office of Legislative Research and General Counsel

S.B. 83 - Acupuncture Licensing Act Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

12/27/2006, 4:47:56 PM, Lead Analyst: Eckersley, S.

Office of the Legislative Fiscal Analyst