

Senator Wayne A. Harper proposes the following substitute bill:

ACUPUNCTURE LICENSING ACT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Marc K. Roberts

LONG TITLE

General Description:

This bill modifies provisions of the Acupuncture Act.

Highlighted Provisions:

This bill:

- ▶ defines terms, including "injection therapy";
- ▶ modifies the definition of the "practice of acupuncture" to include injection therapy;
- ▶ grants limited prescriptive authority to a licensee who is administering sterile substances as part of injection therapy; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-72-102, as last amended by Laws of Utah 2012, Chapter 88

58-72-302, as last amended by Laws of Utah 2009, Chapter 183

ENACTS:



26 **58-72-701**, Utah Code Annotated 1953

27

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

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

30 **58-72-102. Acupuncture licensing -- Definitions.**

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

32 (1) "Board" means the Acupuncture Licensing Board created in Section **58-72-201**.

33 (2) (a) "Injection therapy" means the injection of sterile substances into acupuncture
34 points with a hypodermic needle.

35 (b) "Injection therapy" includes:

36 (i) the use of oxygen and epinephrine as necessary for patient care and safety; and

37 (ii) using ultrasound guidance to locate anatomical structures to ensure patient safety.

37a **Ŝ→ (c) "Injection therapy" does not include the use of:**

37b **(i) a controlled substance;**

37c **(ii) an antidepressant;**

37d **(iii) a sedative; or**

37e **(iv) an antibiotic. ←Ŝ**

38 [~~2~~] (3) "Licensed acupuncturist," designated as "L.Ac.," means a person who has
39 been licensed under this chapter to practice acupuncture.

40 [~~3~~] (4) "Moxibustion" means a heat therapy that uses the herb moxa to heat
41 acupuncture points of the body.

42 [~~4~~] (5) (a) "Practice of acupuncture" means the insertion of acupuncture needles, the
43 use of injection therapy, and the application of moxibustion to specific areas of the body based
44 on traditional oriental medical diagnosis and modern research as a primary mode of therapy.

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

46 (i) manual, mechanical, thermal, electrical, light, and electromagnetic treatments based
47 on traditional oriental medical diagnosis and modern research;

48 (ii) the recommendation, administration, or provision of dietary guidelines, herbs,
49 supplements, homeopathics, and therapeutic exercise based on traditional oriental medical
50 diagnosis and modern research according to practitioner training; and

51 (iii) the practice described in Subsections [~~4~~] (5)(a) and (b) on an animal to the extent
52 permitted by:

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

54 (B) the provisions of this chapter; and

55 (C) division rule.

56 (c) "Practice of acupuncture" does not include:

57 (i) the manual manipulation or adjustment of the joints of the body beyond the elastic
58 barrier; or

59 (ii) the "manipulation of the articulation of the spinal column" as defined in Section
60 58-73-102.

61 (6) "Sterile substances," for the purposes of injection therapy, include:

62 (a) a nutritional substance;

63 (b) a local anesthetic;

64 (c) autologous blood; and

65 (d) any other sterile substance approved for injection therapy by division rule.

66 [(5)] (7) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-72-503,
67 and as may be further defined by division rule.

68 Section 2. Section 58-72-302 is amended to read:

69 **58-72-302. Qualifications for licensure.**

70 [~~Notwithstanding Section 58-1-302, an~~] An applicant for licensure as a licensed
71 acupuncturist shall:

72 (1) submit an application in a form prescribed by the division;

73 (2) pay a fee determined by the department under Section 63J-1-504;

74 (3) be of good moral character;

75 (4) meet the requirements for current active certification in acupuncture under
76 guidelines established by the National Commission for the Certification of Acupuncture and
77 Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other
78 appropriate documentation;

79 (5) pass the examination required by the division by rule;

80 (6) establish procedures, as defined by rule, which shall enable patients to give
81 informed consent to treatment; and

82 (7) meet with the board, if requested, for the purpose of evaluating the applicant's
83 qualifications for licensure.

84 Section 3. Section 58-72-701 is enacted to read:

85 **Part 7. Procurement and Administration Authority**

86 **58-72-701. Procurement and administration authority.**

87 (1) A licensee who has received the necessary training to practice injection therapy:

88 (a) has prescriptive authority limited to procuring and administering substances
89 described in Subsections 58-72-102(5)(a) and (b) for in-office use only; and

90 (b) may obtain substances described in Subsections 58-72-102(5)(a) and (b) from a
91 registered prescription drug outlet, registered manufacturer, or registered wholesaler.

92 (2) An entity that provides any substance to a licensee in accordance with this chapter,
93 and relies in good faith on license information provided by the licensee, is not liable for
94 providing the substance.