

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

AN ACT relating to professions and occupations; creating the Acupuncture Practice Act; establishing the board of acupuncture; regulating the practice of acupuncture in this state; providing rulemaking authority; providing penalties; establishing an account; providing an appropriation; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 33-49-101 through 33-49-112 are created to read:

CHAPTER 49

ACUPUNCTURE PRACTICE ACT

33-49-101. Short title.

This chapter shall be known and may be cited as the "Wyoming Acupuncture Practice Act".

33-49-102. Definitions.

(a) As used in this chapter:

(i) "ACAOM" means the accreditation commission for acupuncture and oriental medicine educational institutions, or its equivalent as determined by the board;

(ii) "Acupuncture" means the insertion of acupuncture needles into the body, with or without the application of electric current or heat to the needles, for the therapeutic purpose of promoting, maintaining and restoring health, including the treatment of dysfunctions of the body involving pain;

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

(iii) "Acupuncturist" means any person to whom a license to practice acupuncture in this state has been issued under this chapter;

(iv) "Auricular acupuncture" means a practice trained by a nationally recognized auricular acupuncture program for the purpose of treating mental and emotional health, post and acute trauma, substance abuse and chemical dependency;

(v) "Board" means the Wyoming board of acupuncture created under this chapter;

(vi) "License" means a license to practice acupuncture in this state issued by the board pursuant to this chapter and consistent with the scope of practice a person is qualified to perform as a result of their NCCAOM diplomate status, post graduate training, NADA certificate of training completion or as otherwise authorized by the board;

(vii) "Licensee" means a person licensed by the board under this chapter;

(viii) "NADA" means the national acupuncture detoxification association, or its equivalent as determined by the board;

(ix) "NCCAOM" means the national certification commission for acupuncture and oriental medicine, or its equivalent as determined by the board.

33-49-103. Board created; members; appointment; terms; qualification; removal; vacancies.

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

(a) The Wyoming board of acupuncture is created to implement and administer the provisions of this chapter. The board shall consist of five (5) members who are legal residents of Wyoming. The board shall consist of one (1) member of the public, one (1) member who is NCCAOM certified, two (2) members who have been engaged in the practice of acupuncture for a period of not less than five (5) years immediately preceding appointment to the initial board and one (1) member who is a health care professional licensed pursuant to this title other than this chapter.

(b) The governor shall appoint the members of the board. Of the initial members appointed to the board, two (2) members shall be appointed for a term of two (2) years and three (3) members shall be appointed for a term of four (4) years. Thereafter, the terms of office shall be four (4) years. Each member shall serve until the member's successor is appointed and qualified. No member shall serve more than two (2) consecutive full terms.

(c) Any vacancy on the board shall be filled by the governor for the balance of the unexpired term.

(d) The governor may remove any member from the board pursuant to W.S. 9-1-202.

33-49-104. Board meetings; elections; quorum.

The board shall meet at least once each year and elect a chairman at the first meeting each year. The board may convene at the request of the chairman or as determined by the board for any other meeting as may be deemed necessary to transact its business. Meetings may be carried out via

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

telecommunications. Three (3) board members shall constitute a quorum.

33-49-105. Reimbursement of expenses and immunity.

(a) Members of the board shall not receive compensation for their services but shall receive mileage and per diem as provided in W.S. 33-1-302(a)(vii) while engaged in the discharge of official duties.

(b) Members of the board shall have the same immunities from personal liability as state employees for actions taken in the performance of their duties under this chapter, as provided in W.S. 1-39-104.

33-49-106. Board responsibilities and duties.

(a) The board shall:

(i) Administer this chapter;

(ii) Determine the following standards for licensees:

(A) Continuing education requirements;

(B) Professional conduct standards;

(C) Ethical standards of practice.

(iii) Approve or disapprove applications for licensure and issue licenses, renewals and reinstatements;

(iv) Establish tiered licensing as necessary for the purpose of differentiating auricular acupuncture;

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

(v) Censure, suspend or revoke licenses as provided in this chapter and the Wyoming Administrative Procedure Act;

(vi) Initiate and conduct investigations, hearings and proceedings concerning alleged violations of this chapter and board rules;

(vii) Keep a record of all proceedings and make available to licensees and other concerned parties an annual report of all board action;

(viii) Establish application and licensure fee requirements for licensees regulated under this chapter;

(ix) Prescribe fees in accordance with W.S. 33-1-201 for implementing this chapter;

(x) Promulgate rules and regulations as necessary to carry out this chapter.

(b) The board may employ or contract with individuals it determines necessary to administer its affairs and provide support services.

(c) All fees collected by the board shall be deposited by the state treasurer to the credit of the Wyoming board of acupuncture account. Disbursements from the account shall not exceed the monies credited to it. The account shall be used by the board to defray costs incurred in the administration of this chapter.

33-49-107. Licensure required; components; exemptions; other licensed health care professionals.

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

(a) Beginning January 1, 2018, unless the person is licensed to practice acupuncture in compliance with this chapter and the rules and regulations adopted pursuant thereto, no person shall:

(i) Practice acupuncture or hold himself out as an acupuncturist or as being able to practice acupuncture in Wyoming;

(ii) Use the title of acupuncturist or any variant thereof; or

(iii) Use any configuration of letters, including L. Ac., after his name indicating a degree in acupuncture.

(b) Any license issued under this chapter shall:

(i) Be issued in the name of the licensed acupuncturist;

(ii) State the licensing and expiration dates;
and

(iii) Be displayed at all times in a conspicuous manner in the place of business or employment of the licensee.

(c) The following persons are exempt from this chapter's licensure requirements:

(i) An acupuncturist licensed to practice acupuncture in another jurisdiction while teaching or demonstrating or providing acupuncture in connection with

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

teaching or participating in an educational seminar in Wyoming. Any exemption under this paragraph shall not exceed sixty (60) days cumulatively in a calendar year;

(ii) An acupuncturist licensed in another jurisdiction who enters this state to provide acupuncture during a natural disaster or a public health emergency, as declared by the governor pursuant to W.S. 35-4-115(a) (i);

(iii) With board approval, a person in training may practice acupuncture provided all services are performed under the direct supervision of an acupuncturist licensed in this state.

(e) Nothing in this chapter shall be construed to prohibit or restrict any other licensed health care provider in this state from practicing acupuncture within their statutory scope of practice. However, no person may represent themselves as an acupuncturist in any manner unless licensed in accordance with this chapter.

33-49-108. Application for license; renewal and reinstatement; qualifications; fees; reporting.

(a) An applicant for licensure to practice acupuncture under this chapter shall:

(i) Apply for licensure with the board by providing an application in the form and manner prescribed by the board;

(ii) Pay the required fees established by the board; and

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

(iii) Furnish to the board evidence that the applicant has:

(A) Graduated from an accredited ACAOM program and passed NCCAOM examination;

(B) Graduated from an accredited ACAOM program and continuously practiced acupuncture in this state for at least ten (10) years before January 1, 2018;

(C) Completed other examination, education or apprenticeship processes the board considers substantively qualifying; or

(D) NADA certificate of training completion, if applying for an auricular acupuncturist license.

(b) Licenses shall be renewed or reinstated according to a schedule established by the board pursuant to this chapter. If a licensee fails to renew a license pursuant to the schedule established by the board, the license shall expire and the licensee shall not practice acupuncture in this state.

(c) An applicant for licensure or licensee shall report any pending or final administrative or disciplinary actions, or other judgments, as well as the terms of any settlement or other disposition of an action or judgment, against the applicant or licensee involving malpractice or improper practice of acupuncture, whether occurring in Wyoming or in any other jurisdiction upon application for licensure, renewal or reinstatement, or not later than thirty (30) days after the licensee becomes aware of such actions or judgments.

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

33-49-109. Licensure by endorsement.

(a) The board may issue a license by endorsement to practice acupuncture in Wyoming to an applicant who is licensed to practice acupuncture in another state subject to the following:

(i) The other state shall have substantially equivalent acupuncture licensure requirements as Wyoming, including similar licensure by endorsement provisions for licensees of this state;

(ii) The applicant shall not have any disciplinary actions pending at the time of application;

(iii) The applicant shall not have had a license to practice acupuncture suspended or revoked in this state or any other; and

(iv) The person shall adhere to all requirements of continuing education and ethical standards established by the board.

33-49-110. Hearings and investigations.

(a) Upon receiving a complaint charging a licensee or applicant with any act prohibited by this chapter, the board may conduct an investigation. If the board finds reasonable grounds to substantiate the allegations of the complaint, a time and place for a hearing shall be set, notice of which shall be served on the licensee or applicant at least fifteen (15) calendar days prior to the hearing. The notice shall be by personal service or by

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

certified or registered mail sent to the last known address of the licensee or applicant.

(b) The board may issue subpoenas for the attendance of witnesses and the production of necessary evidence in any hearing before it. Upon request of the respondent or his counsel, the board shall issue subpoenas on behalf of the respondent.

(c) Hearings under this section shall be held in accordance with, and a person aggrieved by a decision of the board may take an appeal pursuant to, the Wyoming Administrative Procedure Act.

33-49-111. Disciplinary action; suspension and revocation of license; application for reinstatement.

(a) After any hearing conducted pursuant to W.S. 33-49-110, the board may approve, deny, suspend, revoke or refuse to renew a license or impose probationary conditions on the license if the licensee or applicant has engaged in unprofessional conduct. For purposes of this section, unprofessional conduct includes any of the following:

(i) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;

(ii) Violating the ethical standards of practice or rules of professional conduct as adopted and published by the board;

(iii) Being convicted of a felony;

(iv) Being convicted of an offense involving a controlled substance;

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

(v) Being negligent in the practice of acupuncture;

(vi) Violating any lawful order, rule or regulation rendered or adopted by the board;

(vii) Violating any provision of this chapter.

(b) An application for reinstatement may be made to the board not earlier than one (1) year after the date of the revocation of the license. The board may accept or reject an application for reinstatement and may hold a hearing to consider reinstatement. An applicant for reinstatement aggrieved by any final action of the board may appeal to the district court pursuant to the Wyoming Administrative Procedure Act.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-49-112. Violations; penalties; proceedings.

(a) Any person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction shall be subject to the fines and penalties prescribed in W.S. 6-10-103. If the board has reason to believe that any individual is liable under this section, it may certify the

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

facts to the prosecuting attorney of the jurisdiction in which the offense was committed.

(b) The attorney general, the board, any county or district attorney or any citizen may obtain an injunction in the name of the state of Wyoming upon the relation of a complainant enjoining any person from engaging in the practice of acupuncture without a license. The district court of the district in which the offending person resides or the district court of Laramie county has original jurisdiction of any such injunction proceedings. An injunction may be issued without proof of actual damage sustained and upon proof of one (1) or more acts constituting the practice of acupuncture without a license. The standard of proof of any violation of this subsection shall be by a preponderance of the evidence.

(c) Nothing in this section shall limit any additional civil or criminal liability under the laws of this state.

(d) Notwithstanding any other provision of this chapter, the Wyoming Acupuncture Practice Act shall not apply to persons licensed under title 33, chapter 25 or chapter 26 of the Wyoming statutes.

Section 2. For the period beginning with the effective date of this act through June 30, 2018, there is appropriated twenty thousand dollars (\$20,000.00) from the general fund to the department of administration and information. This appropriation shall be expended only for the purpose of providing necessary support and executive secretary services for the licensing board created under section 1 of this act. Notwithstanding any other provision of law, this appropriation shall not be transferred or

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2018. The board shall submit through the normal budget process a standard budget request for the fiscal biennium beginning July 1, 2018, and for subsequent biennia.

Section 3. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk